THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Honorable Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2017-002281

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S.C. SUPREME COURT
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STEPHEN C. STANKO #6022.....PETITIONER,

v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

APPENDIX
VOLUME 11 OF 14

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EX PARTE ORDER DENYING APPLICANT'S SECOND MOTION TO AUTHORIZE FUNDING FOR EXPERT AND INVESTIGATIVE SERVICES 9/25/14....4899

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EXPERT AND INVESTIGATIVE SERVICES 10/14/14 4903

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Dr. James W. Thrasher 5191
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Dr. Joseph C. Wu 5324
Stephen Stanko (Colloquy) 5396
Dr. Thomas Sachy 5413

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GEORGETOWN DEFENSE PENALTY CLOSING ARGUMENT 6226

GEORGETOWN PENALTY PHASE JURY VERDICT 6293

Q21. In general, how important are the following in your decision to attend capital defense training programs?

	Very Important	Important	Somewhat Important	Unimportant
a. Advanced Notification of Dates	O	O	O	O
b. Cost	O	O	O	O
c. Desirability of Training Location	O	O	O	O
d. Reputation of the Trainers/Speakers	O	O	O	O
e. Reputation of Training Organization or Entity	O	O	O	O
f. State Specific Training	O	O	O	O
g. Time Commitment	O	O	O	O
h. Topics Addressed	O	O	O	O

Q22. What other factors are important to you in deciding whether to attend capital defense training programs?

.....

.....

.....

THANK YOU FOR COMPLETING THIS IMPORTANT QUESTIONNAIRE

CAPITAL DEFENSE TRAINING
Charleston, South Carolina
February 9-10, 2006

CONFIDENTIAL CASE INFORMATION FORM*

PRIVILEGED AND CONFIDENTIAL

! Fax to (718) 432-2567 or email to tanyagreenelaw@yahoo.com **no later than** January 15.

Please provide information about a pending capital case on which you intend to work during the training. If attending with team members, each team member should complete a separate form.

Your name _____

State of prosecution _____ County _____ Year _____

Charged crime(s) _____ anticipated trial date _____

Race/gender of defendant(s) _____ (if codefendants, circle your client)

Race/gender of victim(s) _____

Please check the members of your defense team: ____ attorney ____attorney

____mitigation specialist _____investigator ____ other; if other, list _____

Facts of crime _____

_____

_____

Facts in aggravation _____

_____

_____

* Attendance at this program is limited to state capital criminal defense practitioners.

Theory of mitigation (at this point) _____

_____

_____

Describe (in one sentence for each) what you expect 2 or 3 of the mitigation witnesses you have identified so far to provide _____

_____

_____

List the three most important mitigation documents you have obtained so far _____

_____

Have there been any state or prior mental health assessments of your client? _____

Describe 3 issues or concerns in your case that you would like addressed during the training

_____

_____

_____

Aside from a certain legal outcome, what do you think is most important to your client? _____

_____

_____

Has a plea been offered? _____ If yes, what is it? _____

Has the defense team made any contact with victim=s family? _____

From:	Dale Davis <dalemdavis@bellsouth.net>
Sent:	Tuesday, January 24, 2006 9:35 AM
To:	Bill Diggs
Subject:	Need approval for facts to be provided at seminar
Attachments:	a-training casesummary-charleston.doc

Mr. Diggs:
I need your input right away on the following: I want to participate in the Capital Defense Training scheduled in Charleston, SC, for February 9-10, 2006. This is the program that I sent materials to you earlier asking if you wanted to attend but I did not hear back. The fact investigator has agreed to attend with me as the program requires team members to attend together. This program is funded by a grant from the United States Bureau of Justice Assistance (BJA). As this program is part of a pilot capital defense training project, BJA staff will be present at some of the training sessions. This program is geared to a team approach to capital cases. The program is a Bring-Your-Own-Case format where we will work on one of your pending capital cases in small group workshops. In many of these workshops I will be paired with my team member as well as with other practitioners from other jurisdictions.

In order to participate, a case summary must be filled out. (form attached) Everyone attending the program must sign a confidentiality agreement in order to participate. We want to get your approval before I fill out the case summary as case facts & aggravating factors are identified. The case/defendant is not identified.

Please let me know ASAP if this meets with your approval. It is a very valuable seminar and the person responsible for registration has extended the time for me to find someone to replace the attorney that was to attend originally but then could not go.

Additionally, I would like to meet with you one day next week, if possible. Please let me know about that as well.
Thanks so much,
Dale

Dale M. Davis
Capital Mitigation Specialist
Criminal Mitigation Services

This e-mail message and any accompanying attachments may contain legally privileged or confidential information. If you are not the intended recipient, you are hereby notified that taking any action based upon the information contained in the email or attachments, or any dissemination, distribution or copying of this e-mail or attachments, is strictly prohibited. If you have received this e-mail in error, please permanently delete the original, all copies and printouts, and notify my office immediately by e-mail or at (843) 871-6176. Thank you.

CAPITAL DEFENSE TRAINING

Charleston, South Carolina
February 9-10, 2006

CONFIDENTIAL CASE INFORMATION FORM*

PRIVILEGED AND CONFIDENTIAL

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Please provide information about a pending capital case on which you intend to work during the training. If attending with team members, each team member should complete a separate form.

Your name _____

State of prosecution _____ County _____ Year _____

Charged crime(s) _____ anticipated trial date _____

Race/gender of defendant(s) _____ (if codefendants, circle your client)

Race/gender of victim(s) _____

Please check the members of your defense team: ____ attorney ____attorney

____mitigation specialist _____investigator ____ other; if other, list _____

Facts of crime _____

_____

_____

Facts in aggravation _____

_____

_____

* Attendance at this program is limited to state capital criminal defense practitioners.

Theory of mitigation (at this point) _____

_____

_____

Describe (in one sentence for each) what you expect 2 or 3 of the mitigation witnesses you have identified so far to provide_____

_____

_____

List the three most important mitigation documents you have obtained so far _____

_____

Have there been any state or prior mental health assessments of your client? _____

Describe 3 issues or concerns in your case that you would like addressed during the training

_____

_____

_____

Aside from a certain legal outcome, what do you think is most important to your client? _____

_____

_____

Has a plea been offered? _____ If yes, what is it?_____

Has the defense team made any contact with victim=s family? _____

South Carolina Commission on Indigent Defense

Attorney: William Isaac Diggs
Defendant: Stephen Christopher Stanko
SCCID Number: S-2006-00276

	Date	Activity for Stephen Christopher Stanko	Out-of-Court Time	In-Court Time
1	11-15-06	travel to Georgetown county having a hearing before Judge Baxley about the appointment of Counsel	2.00	0.00
2	11-15-06	meeting with client before and after the hearing	1.00	0.00
3	11-15-06	hearing in front of Judge Baxley	0.00	1.00
4	11-15-06	meeting with the solicitor and the Judge befoe and after the hearing out of court	0.50	0.00
5	11-21-06	receiving and reviewing the order of appointment and opening the file	1.00	0.00
6	02-01-07	travel to Lieber Correctional Institution and see the client and back to the office	6.00	0.00
7	02-01-07	meeeting with client discuss the case	2.00	0.00
8	03-26-07	travel to Lieber Correctional and back to the office	6.00	0.00
9	04-13-07	meeting with Brana discuss the case	2.00	0.00
10	05-02-07	travel to Conway and back to the office	1.00	0.00
11	05-02-07	status conference before judge Baxley	0.00	0.50
12	05-02-07	meeting with the co-counsel, solicitor and the jusge before and after the status conference to discuss the case	1.00	0.00
13	06-05-07	phone conference with client	0.50	0.00
14	06-19-07	discussing the issues in this case with dr. Sachy	1.50	0.00
15	06-19-07	phone call to dr. Wu	0.25	0.00
16	06-20-07	travel time to go and see client Liaber correctional institution back to office	6.00	0.00
17	06-20-07	meeting with client discuss the case	1.00	0.00
18	06-21-07	phone call to Joe savitz, with the appellant defense discussing the appeal	0.50	0.00
19	06-21-07	phone call to dr. sachy	0.50	0.00
20	06-27-07	talking with the client about the case	0.50	0.00
21	07-18-07	telephone call to Kathrine Hudggins with the appellate defense office discussing the appeal in this ase	0.50	0.00
22	07-19-07	telephone call to Joe Saviz discussing the appeal on Stanko's case	1.00	0.00
23	07-19-07	phone call from client discuss the case and the appeal	0.50	0.00
24	08-23-07	travel to liber to meet with the client	6.00	0.00
25	08-23-07	meeting with client discussing the case	1.00	0.00
26	08-30-07	travel to conway for status conference with the judge	1.00	0.00
27	08-30-07	meeting with the cocounsel and solicitor	0.50	0.00
28	08-31-07	travel to conaway for status conference	1.00	0.00
29	08-31-07	Status conference with the judge and cocounsel and solicitor about the case	1.00	0.00
30	09-17-07	phone call with the client	0.12	0.00
31	09-24-07	talking to client twice, calling and talking with the warden's office preparing and faxing a letter to warden's office	1.00	0.00
32	12-03-07	travel time to Leiber Correctional institution	6.00	0.00
33	12-03-07	meeting with client and co-counsel	1.50	0.00
34	04-16-08	travel to lieber to meet with the client	6.00	0.00
35	04-16-08	meeting with client discussing the appeal issue, PCR issue Federal case issue and the new trial in conway	2.00	0.00
36	04-25-08	telephone conference with Jusge Baxley in regard to the trial. Judge baxley is going the stay the trial until the U.S. supreme court rules in client's appeal	0.12	0.00
37	04-28-08	talking to client on the phone giving him the information about judge baxley's decision	0.50	0.00

38	04-29-08	talking to opposing counsel about the judge's decision, discussing the issues in the trial	0.50	0.00
39	12-05-08	talking to judge baxley, being advise client will be in conway on monday the 8th for PCR hearing to appoint an attorney for him	0.50	0.00
40	12-08-08	travel to conway and back to office	1.00	0.00
41	12-08-08	meeting with client and discussing the possible outcome of that hearing	0.50	0.00
42	12-10-08	call from client discuss the hearing on monday and discuss the list of attorneey's for him to use on PCR hearing	0.50	0.00
43	02-05-09	meeting with the co-counsel and discuss the status conference with the judge	0.50	0.00
44	02-05-09	status conference with Judge John	0.00	1.00
45	02-05-09	travel to conway and back to office	1.50	0.00
46	02-05-09	meeting with client before and after the status conference	0.50	0.00
47	02-13-09	traveling to go to see the client	6.00	0.00
48	02-13-09	meeting with client	1.00	0.00
49	06-05-09	travel to conway and back to office	1.50	0.00
50	06-05-09	meeting with client before and after the hearing talking to co-counsel about the motion hearing	1.00	0.00
51	06-05-09	motion hearing in front of judge John (motion from the state to clear the issue of removing Mr. diggs as counsel for the defendant on the second trial)	0.00	0.50
52	06-20-09	Preparing orders for Expert witnesses for Judge John to sign	1.00	0.00
53	07-01-09	travel to see client	6.00	0.00
54	07-01-09	meeting with client discuss the case	1.50	0.00
55	08-24-09	travel to conway and back to office	1.00	0.00
56	08-24-09	meeting with client before and after the hearing with the judge	1.00	0.00
57	08-24-09	hearing in front of judge John	0.00	1.00
58	09-21-09	meeting with Brana about the stanko case and the motions	4.00	0.00
59	09-21-09	travel time in Conway and back to office	1.00	0.00
60	09-24-09	travel time to conway and back	1.00	0.00
61	09-24-09	meeting with Brana about motion to be filed on Friday	4.00	0.00
62	09-24-09	working in the office on the motions, research and preparing for filing	3.00	0.00
63	09-25-09	reviewing the motions before filing making copies and prepare package	3.00	0.00
64	09-25-09	meeting with Vicki Child and Brana about the case	3.00	0.00
65	10-05-09	travel to conway to get the pictures and back to office	1.00	0.00
66	10-05-09	meeting with solicitor and discuss the pictures and the case	1.00	0.00
67	10-05-09	meeting with crime scene expert and the investigator and Brana	2.00	0.00
68	10-05-09	going to Horry county PD to look avidence and comming back	3.00	0.00
69	10-06-09	Henry Turner's house and to brana's office with expert back to office	5.00	0.00
70	10-07-09	discuss the hearing in the morning with dr. sachy	1.00	0.00
71	10-08-09	travelto conway and back to office	1.00	0.00
72	10-08-09	hearing in front of judge John	0.00	3.00
73	10-09-09	meeting with Evelyn Califf our expert witness discuss the case	1.00	0.00
74	10-09-09	talking to Brana about to do list for next week	0.50	0.00
75	10-18-09	research and wrie motions to be heard on October 23, 2009	2.00	0.00
76	10-19-09	research and complete and e-mail motions for the judge and solicitor	4.00	0.00
77	10-20-09	travel to conway and back to office	1.00	0.00
78	10-20-09	file the motions and serve a copy to solicitor and Judge John	0.50	0.00
79	10-22-09	prepare for the motion hearing in the morning, reseach and review	2.00	0.00
80	10-23-09	motion hearing in front of Judge John and Jury qualification, excuse the 65years and older medical excuses and student	0.00	6.50
81	10-23-09	travel time to conway and back to office	1.00	0.00
82	10-24-09	travel to Gray Georgia to meet with doctor sachy discuss the trail strategy and go over the exhibits for trial	10.00	0.00

83	10-25-09	meeting with doctor Sachy, strategy for trial, expert witness list who testify when, exhibits prep for testimony	10.00	0.00
84	10-26-09	printing out 1940 pages from the copmuter Juror questionnaaire and separate by muber put sticker on ones that I have to go back and review	10.00	0.00
85	10-27-09	contacting the expert's witnesses checking with their calendar and the date and time to be here for trial	2.00	0.00
86	10-28-09	review expert report and reseach	2.50	0.00
87	10-28-09	prepare consent order for exhibits	0.50	0.00
88	10-28-09	travel to conway, get solicitors signature gettting Judge John's signature in the order deliver a copy of the order to solicitor and back to office	2.00	0.00
89	10-28-09	meeti9ng with Brana the co-counsel discuss to do list before the trial starts	2.00	0.00
90	10-29-09	meeting with Co-counsel and Evelyn Califf our expert witness and discuss strategy in this case	2.50	0.00
91	10-29-09	going through jurors resposes that know about the case and that they pro death and they think he is guilty	3.00	0.00
92	10-30-09	prepare the amended order in regard to Evelyn Califf and the affidavit to go with it	1.00	0.00
93	10-30-09	travel to conway and back to office	1.00	0.00
94	10-30-09	hearing in front of Judge John	0.00	3.00
95	10-30-09	going to solicitor's office and making copies of the documents needed for trial	1.00	0.00
96	10-31-09	talking to dr. Wu expert witness and meeting with Christine Demsey fron the Hermis company regarding Stanko's Pat Scan	3.00	0.00
97	10-31-09	preparing and e-mailing order for Judge John	1.00	0.00
98	11-04-09	travel to J rueben long , to conway and back to office	2.00	0.00
99	11-04-09	meeting with Pam crawford and stanko and brana williams, Pam interview client being present for that	1.00	0.00
10011-04-09		discuss the blair hearing with co counsel and client	1.50	0.00
10111-04-09		Blair hearing in front of judge John and juror list	0.00	2.00
10211-05-09		prepare the witness list and the exhibits list	1.50	0.00
10311-05-09		organize the experts testimony from the first trial	3.00	0.00
10411-05-09		meeting with Evelyn Califf discuss the case and the witness list she has, discuss her strategy	1.50	0.00
10511-06-09		travel to conway and back to office	1.00	0.00
10611-06-09		jury panel day	0.00	4.00
10711-06-09		getting the 26 panels ready for monday each juror with their questionnaire and any questions answers during the panel selection	4.00	0.00
10811-07-09		meeting with Dr. Thrasher and Dr. Albiniak and the co-counsel discuss the testimony from last trial and prepare for this trial	2.00	0.00
10911-08-09		searching case law regarding voir dire and preparing a note book for monday court	4.00	0.00
11011-09-09		travel to conway and back to office	1.00	0.00
11111-09-09		Jury selection	0.00	9.00
11211-09-09		looking the panels for tommorrow making notes	4.00	0.00
11311-10-09		travel to conway and back to office	1.00	0.00
11411-10-09		jury selection	0.00	8.00
11511-10-09		review the panels for next morning and reseach for change of venue motion	5.00	0.00
11611-11-09		travel to conway and back to office	1.00	0.00
11711-11-09		jury selection	0.00	9.00
11811-11-09		research about change of venue motion and review the juror answers for court in the morning	3.00	0.00
11911-12-09		travel to conway and back to office	1.00	0.00
12011-12-09		jury selection	0.00	8.00
12111-12-09		reseach about change of venue motion, prepare the argument on change of venue motion	2.00	0.00
12211-13-09		travel to conway and back to office	1.00	0.00

12311-13-09	selecting 12 jurors, first day of trial	0.00	9.00
12411-13-09	talking to our esperts witnesses that will testify in this case Dr. Gur ; Dr. Wu; Dr. Albiniak and Dr. Sachy	4.00	0.00
12511-14-09	travel time	1.00	0.00
12611-14-09	talking to co-counsel and expert witnesses	2.00	0.00
12711-14-09	second day of trial	0.00	8.00
12811-14-09	review testimony of the expert prepare for tomorrow testimony of our expert witnesses	4.00	0.00
12911-15-09	travel to conway and back to office	1.00	0.00
13011-15-09	talking to expert witness before and after their testimony	4.00	0.00
13111-15-09	third day of trial	0.00	8.00
13211-16-09	travel to conway and back to office	1.00	0.00
13311-16-09	fourth day of trial jury verdict	0.00	9.00
13411-17-09	meeting at the office with co-counsel, investigator and mitigation expert discusssing the penalty part of the trial calling witnesses on the phone	4.00	0.00
13511-17-09	working on the power point with the mitigation expert at the office	4.00	0.00
13611-18-09	travel to conway and back to office	1.00	0.00
13711-18-09	penalty part of the trial fisrt day	0.00	8.00
13811-19-09	travel to conway and back to office	1.00	0.00
13911-19-09	second day penalty phase	0.00	8.00
14011-19-09	discussing the outcome with Dr. Sachy	2.00	0.00
14111-20-09	searching and preparing for filing the post trial motion and notice on appeal	4.00	0.00
	Hours Total	**258.49**	**106.50**

FORM 5

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	
	)	2008CP22 1446
Stephen C. Stanko, #6022 Full name and prison number (if any) of Applicant.	)	
	)	
v.	)	**APPLICATION FOR**
	)	
State of South Carolina	)	**POST-CONVICTION RELIEF**
	)	

2008 OCT 17 P 4:07
CLERK OF COURT
GEORGETOWN, S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Death Row, Lieber Correctional Institution P.O. Box 205 Ridgeville, SC 29472

2. Name and location of Court which imposed sentence Georgetown County Court of General Sessions, Judge Deadra L. Jefferson presiding.

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

   (a) 05-GS-22-918

   (b) Murder, assault and battery with intent to kill, criminal sexual conduct first degree, kidnapping (2 counts), armed robbery.

   (c) _____

CERTIFIED A TRUE AND CORRECT COPY
DEPUTY CLERK OF COURT
GEORGETOWN COUNTY, SC

Revised 3/2003

4511

5. The date upon which sentence was imposed and the terms of the sentence:

(a) August 11, 2006.

(b) Death sentence

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty X

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Supreme Court

ii. United States Supreme Court

iii. _____

(b) the result in each such Court to which you appealed:

i. Sentence and conviciton affirmed.

ii. Certiorari denied.

iii. _____

(c) the date of each such result:

i. February 25, 2008, rehearing denied March 19, 08

ii. October 6, 2008

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. State v. Stephen Stanko, 376 S.C. 571, 658 S.E.2d 94 (2008).

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective assistance of trial or appellate counsel

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Trial counsel failed to preserve for appellate review the judge's failure to instruct the jury on the statutory mitigating circumstance of the age or mentality of the defendant at the time of the crime as provided by S.C. Code Section 16-3-20 (C)(b)(7)

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not

previously been presented:

(a) Issue was not preserved for appellate review.

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. William I. Diggs, 1700 Oak St. Suite D, Myrtle Beach, SC

ii. Gerald Kelly, 4760 Yemassee Hwy, Varnville, SC 29944

iii. Joseph L. Savitz, III, 1330 Lady St. Suite 401, Columbia, SC

iv. Kathrine H. Hudgins, 1330 Lady St. Suite 401, Columbia, SC

(b) the proceedings at which each such attorney represented you:

i. Trial

ii. Trial

iii. Appeal

iv. Appeal

19. State clearly the relief you seek in filing this application:

New trial and sentencing

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)
) VERIFICATION
COUNTY OF Georgetown)

I, Stephen C. Stanko, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Stephen C. Stanko

Sworn to and subscribed before me
This 13th day of Oct., 2008.

L.S.
Notary Public for South Carolina
My Commission Expires _____

2008 OCT 17 PM 4:2
CLERK OF COURT

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Stephen C. Stanko, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty or perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of proceeding or give security therefor.

Stephen C. Stanko
Applicant

Sworn to and subscribed before me
This 13th day of Oct., 2008.

L.S.
Notary Public for South Carolina
My Commission Expires: _____

SCCID
SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Joseph L. Savitz, III, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 14, 2008

Honorable Alma White
Clerk of Court, Georgetown County
PO Drawer 421270
Georgetown, SC 29442

Re: Stephen C. Stanko v. State

Dear Ms. White:

Please find enclosed Mr. Stanko's *pro se* application for post-conviction relief. Please send clocked in copy to our office. I am enclosing an envelope for your convenience.

Thank you for your assistance in this matter.

Sincerely,

Kathrine H. Hudgins
Appellate Defender

KHH/kde

Enclosures

Godfrey Law Firm L.L.C.
10 East Avenue
Greenville, SC 29601

(864) 467-9196
(864) 467-9427

E.P. "Bill" Godfrey
Attorney at Law
State & Federal Criminal Law

Mary Alice H. Godfrey
Attorney at Law
Certified Family Court Mediator

Elizabeth D. Medlin
Attorney at Law
Certified Guardian Ad Litem

October 17, 2009

08-1446

The Honorable Alma White
Clerk, Georgetown County
P.O. Drawer 421270
Georgetown, SC 29422

Re: Stephen C. Stanko, #6022 v. State of South Carolina
2008-CP-22-1446
Filing of Final Amended Application for Post-Conviction Relief

Dear Ms. White:

Enclosed please find the original and three (3) copies of the Final Amended Application for Post Conviction Relief, Certificate of Service and Cover Sheet.

Please clock and file the original and return the additional copies to me. A self-addressed, postage paid envelope is enclosed for your convenience.

Sincerely,

E.P. Bill Godfrey, Jr.
SC Bar 13043

EPG/kwh
Enclosures
cc: J. Anthony Mabry

SCANNED

CERTIFIED A TRUE AND CORRECT COPY
Jennifer Lawrence, Deputy Clerk
DEPUTY CLERK OF COURT
GEORGETOWN COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEROGETOWN)

IN THE COURT OF COMMON PLEAS

Stephen C. Stanko, #6022)
Plaintiff(s))

vs.)

State of South Carolina)
Defendant(s))

CIVIL ACTION COVERSHEET

2008-CP - 22- 1446

FILED
2009 OCT 21
ALICE
CLERK

(Please Print)
Submitted By: E. P. Bill Godfrey
Address: 10 East Ave., Greenville, SC 29601

SC Bar #: 13043
Telephone #: (864) 467-9196
Fax #: (864) 467-9427
Other: cell (864) 630-2274
E-mail: bill@godfreylawfirm.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (*Check all that apply)*

**If Action is Judgment/Settlement do not complete*

☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION *(Check One Box Below)*

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)

Previous Notice of Intent Case # 20____-CP-_____-_____

- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

Torts – Personal Injury
- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Inmate Petitions
- ☒ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Other (799)

Administrative Law/Relief
- ☐ Reinstate Driver's License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899)

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Administrative Law Judge (980)
- ☐ Public Service Commission (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Sexual Predator (510)

Submitting Party Signature: _____ **Date: October 16, 2009**

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

4519

FORM 5

STATE OF SOUTH CAROLINA)

) IN THE COURT OF COMMON PLEAS
2008-CP-22-1446

COUNTY OF GEORGETOWN)

)

Stephen C. Stanko, #6022)

Full name and prison number (if any) of Applicant.)

)

v.) FINAL AMENDED APPLICATION

) FOR

State of South Carolina) POST-CONVICTION RELIEF

)

FILED
2009 OCT 21 A 11:04
GEORGETOWN COUNTY, S.C.
ALMA K. WHITE
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Death Row, Lieber Correctional Institution P.O. Box 205 Ridgeville, SC 29472

2. Name and location of Court which imposed sentence Georgetown County Court of General Sessions, Judge Deadra L. Jefferson presiding.

3. Name(s) of co-defendant(s) (if any) ___

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 05-GS-22-918

(b) Murder, Assault and Battery with Intent to Kill, Criminal Sexual Conduct, First Degree, Kidnapping (2 counts), and armed robbery

(c) ___

5. The date upon which sentence was imposed and the terms of the sentence:

(a) August 11, 2006

(b) Death Sentence

(c) ___

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ___

(b) after a plea of not guilty X

(c) after a plea of nolo contendere ___

7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

I. South Carolina Supreme Court

ii. United States Supreme Court

iii. ___

(b) the result in each such Court to which you appealed:

I. Sentence and conviction affirmed

ii. Certiorari denied

iii. ___

(c) the date of each such result:

I. February 25, 2008, rehearing denied March 19, 2008

ii. October 6, 2008

iii. ___

(d) if known, citations of any written opinion or orders entered pursuant to such results:

I. State v. Stephen Stanko, 376 S.C. 571, 658 S.E. 2d 94 (2008)

ii. ___

iii. ___

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) ___

(b) ___

(c) ___

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective assistance of trial and appellate counsel

(b) ___

(c) ___

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Trial counsel failed to preserve for appellate review the judge's failure to instruct the jury on the statutory mitigating circumstance of the age or mentality of the defendant at the time of the crime as provided by S.C. Code Section 16-3-20 (C)(b)(7)

(b) Trial counsel failed to request a change of venue based upon the pre-trial publicity of this case and based upon the fact that about 116 potential jurors were questioned, 72 excused, 44 qualified, and 50 had fixed opinions;

(c) Trial counsel was ineffective for seating 5 jurors on the panel who had formed opinions; and one juror who knew and was close friends with the minor victim's principal and was acquainted with a detective. The 5 jurors are as follows: Donald Horton, 161; Stephen Walters, 343; David Dubois, 84; Patricia Wofford, 363; and Larry Drake, 82. Trial counsel failed to question Carroll Eugene Baker, 368, who seemed anxious, based on notes, as the Court was questioning him and allegedly was formerly the Captain of the Fire and Rescue Squad and may have been present at the crime scene.

(d) Trial counsel failed and refused to use any of the documents showing defendant's desperate battle and eventual success to have his wrongful classification as a "sex offender" removed from his record. This information would have aided the insanity defense by showing how the adult victim's statement that she would call the defendant's Department of

Probation, Parole and Pardon Services agent and advise that the defendant had been improperly touching the minor victim created fear in the defendant which caused him to black out because of his mental defect to the point that he did not know the difference between moral and legal right and wrong at the time of the incident.

(e) Trial counsel failed and refused to allow defendant to have the witness list of the state. Trial counsel did not discuss the potential testimony of the witnesses with the defendant; therefore, counsel was unprepared to effectively cross examine the witnesses against the defendant to the point that the witnesses could say almost anything they wanted about defendant without any effective cross examination. Proper cross examination of the witnesses would have lessened the impact of the negative statements made against the defendant. The ineffective cross examination of Vernon House, Darrell Lewis, Steve Lee, James Jackson, Irby Walker and perhaps others was prejudicial to the defendant.

(f) Trial counsel failed to use all of the favorable or mitigating information contained in the defense file such as the Department of Probation, Parole &Pardon Services file and other information to the prejudice of defendant.

(g) Appellate counsel failed to request sufficient time to properly prepare the appeal in light of Justice Jean Toal's Order that the appeal should be expedited and that no extensions would be granted absent extraordinary circumstances and that such extensions were to be granted only by Justice Toal or the full Court. The defendant's due process rights were violated by appellate counsel not receiving sufficient time to research, write, and prepare the appeal.

(h) Appellate counsel failed to brief and argue that defendant's motion for directed verdict should have been granted by the trial court.

(I) Trial counsel was ineffective for failing/refusing to use documents provided by both the Defendant and defense investigators that would have refuted testimony and/or impeached state witnesses.

(j) The state committed prosecutorial misconduct in failing to provide discovery documents to the defense pursuant to statutory requirements and rules of procedure.

(k) Trial counsel was ineffective for failing to object to numerous statements of witnesses referencing the Defendant as "the murderer" and other inflammatory and prejudicial terms.

(l) The South Carolina Supreme Court violated the Defendant's due process rights by literally placing appellate attorneys in an unfair, unjust, and unreasonable position to perfect a complete appeal in a capital case with 3,000 pages of transcripts and highly complex arguments and issues with no provision for extensions which are normally and frequently granted in all other death penalty cases.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

I. ___

ii. ___

iii. ___

iv. ___

(b) the name and location of the Court in which each was filed:

I. ___

ii. ___

iii. ___

iv. ___

(c) the disposition thereof:

I. ___

ii. ___

iii. ___

iv. ___

(d) the date of each such disposition:

I. ___

ii. ___

iii. ___

iv. ___

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

I. ___

ii. ___

iii. ___

iv. ___

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

___

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

I. ___

ii. ___

iii. ___

(b) the proceedings in which each ground was raised:

I. ___

ii. ___

iii. ___

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Issue was not preserved for appellate review

(b) All other issues were only appropriate for post-conviction relief review

(c) ___

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? ___

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

I. William I. Diggs, 1700 Oak St. Suite D, Myrtle Beach, SC 29577

ii. Gerald Kelly, 4760 Yemassee Hwy, Varnville, SC 29944

iii. Joseph L. Savitz, III, 1330 Lady St. Suite 401, Columbia, SC 20201

iv. Katherine H. Hudgins, 1330 Lady St Suite 401, Columbia, SC 29201

(b) the proceedings at which each such attorney represented you:

I. Trial

ii. Trial

iii. Appeal

iv. Appeal

19. State clearly the relief you seek in filing this application:

New Trial and Sentencing

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)
)
County of Georgetown)

VERIFICATION

I, Stephen C. Stanko, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Stephen C. Stanko

SWORN to and subscribed before me this 2nd day of July, 2009.

Virginia L Walker (L.S.)
Notary Public

My Commission Expires: 4/4/2017

FILED
GEORGETOWN COUNTY, S.C.
2009 OCT 21 A 11:04
20
ALICIA C. WHITE
CLERK OF COURT

Revised 3/2003

4527

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Stephen C. Stanko, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Stephen C. Stanko
Applicant

SWORN or affirmed to and subscribed before me this 2nd day of July, 2009.

Virginia L Walker
Notary Public

My Commission Expires: 4/4/2017

FILED
GEORGETOWN COUNTY, S.C.
2009 OCT 21 A 11:04
ALICIA [illegible]
CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	2008-CP-22-1446
Stephen C. Stanko, 6022	)	
Applicant,	)	
v.	)	PROOF OF SERVICE
State of South Carolina,	)	
Respondent.	)	

FILED
GEORGETOWN COUNTY, S.C.
2009 OCT 21 A 11:04
ALMA L. WHITE
CLERK OF COURT

I certify that I have served the Final Amended Application for Post-Conviction Relief on Stephen C. Stanko, 6022 by depositing a copy of it in the United States Mail, postage prepaid, on October 17, 2009, addressed to Respondent's attorney of record, J. Anthony Mabry, South Carolina Attorney General's Office, Post Office Box 11549, Columbia, South Carolina 29211.

October 17, 2009

E.P. Bill Godfrey
SC Bar 13043

Godfrey Law Firm LLC
10 East Avenue
Greenville, South Carolina 29601
Telephone (864) 467-9196
bill@godfreylawfirm.com

Attorney for Applicant.

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NON-INCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time slips, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: [redacted] BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to: South Carolina Office of Indigent Defense, P.O. Box 11433, 1122 Lady Street, Suite 1110, Columbia, SC 29211. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed but in no event later than June 30th of the year services were completed, in order to be paid.

County: Georgetown	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers): H-750173; H-750181; H-750185 H-929318; H-750183
Client's Full Name: Stephen Christopher Stanko	List All Charges: Murder; Grand larceny; CSC w/minor ABWIK; kidnaping
Last Known Address: [redacted]	
Voucher Submitted Under Seal? ☑ YES ☐ NO	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? [Mistrials/retrials are considered new cases] ☑ YES ☐ NO
Type of Cases (Most Serious Charge): ☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ FVP ☐ Other	

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness (es) * DR. BERNARD ALBINIAK	$ 3,610.26
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE-APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT -- ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE. Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $800 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 3,610.26

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20___

☐ Final submission; no further requests for funds. Date case concluded: _____, 20___

Method of Disposition: ☐ Plea ☐ Trial ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: [signature]	Attorney's Signature:
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
William Isaac Diggs
1700 Oak Street. Suite D
Myrtle Beach. SC 29577

SS or F.E.I. Number: [redacted] TELEPHONE NUMBER: 843.626.4243

Trial Judge's Signature: [signature]
Court of Check: 4th Circuit
Date Approved: 11/31/07

Clerk of Court's Signature: [signature]
Clerk of Court (County): Georgetown
Date Certified: 2/12/07

CID FILE NO.:

AGENCY VOUCHER NO.:

CID FORM 140 (10/02) Local Duplication is Authorized PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@sccid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Horry	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers):
Client's Full Name: Stephen Christopher Stanko	2005-GS-26-2927
Last Known Address (Prior to Incarceration): [redacted]	List All Charges With CDR Code: Murder, Armed Robbery

Voucher Submitted Under Seal?	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Mistrial/Retrial are considered new cases)	Type of Cases (Most Serious Charge):
☑ YES ☐ NO	☐ YES ☑ NO	☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases. $3,600 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * Bernard Abimak	$ 2,620.00
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE. Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 2,620.00 ✓

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☑ Final submission; no further requests for funds. Date case concluded: November 19, 20 09

Method of Disposition: ☐ Plea ☑ Trial: ☐ Acquittal ☑ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: [signature]	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:

(Also, Please Provide a valid Email Address)

William Isaac Diggs, 1700 Oak Street, Suite D, Myrtle Beach, SC 29577

SS or F.E.I. Numb [redacted] TELEPHONE NUMBER:

APPROVED BY:

Trial Judge's Signature: [signature]

Court Circuit: 15th

Date Approved: 9/7/10

CERTIFIED BY:

Clerk of Court's Signature

Clerk of Court For (County): Horry

Date Certified:

OID FILE NO.:

AGENCY VOUCHER NO.: 4531 3003

COASTAL CAROLINA UNIVERSITY
Department of Psychology
College of Natural and Applied Sciences

November 23, 2009

William Isaac Diggs
Attorney at Law
1700 Oak Street
Suite D
Myrtle Beach, SC

Dear Bill:

I am submitting my bill for professional consultation and expert testimony in the Stephen C. Stanko capital murder case.

November 7, 2009: Meeting at your office 11:30 – 1:00 PM, 1.5 hours.

November 13, 2009: Testimony on change of venue, 8:15 – 11:30 AM, 3.25 hours.

November 14, 2009: Testimony on frontal lobe structure and function, 2:30 – 4:50, 2.35 hours.

Total of 6.00 hours expended on review of documents, reports and recently published research relevant to the issues involved in the Stanko case.

Total hours, 13.1 @ $200.00 = $2620.00.

Sincerely,

Bernard A. Albiniak

Bernard A. Albiniak, PhD
Associate Professor
Coastal Carolina University

order $150.00 per hr
$1965.00

4532
3994

COASTAL CAROLINA UNIVERSITY

August 24, 2006

Department of Psychology
College of Natural and Applied Sciences

William Isaac Diggs
Attorney at Law
1700 Oak Street
Suite D
Myrtle Beach, SC

Dear Bill:

I am submitting by bill for professional consultation in the Stephen Stanko capital murder case.

May 12: Meeting at your office 1.25 hours @ $150.00 = $187.50. Mileage 10 x 2 = 20 miles.

June 21: Meeting at your office 0.67 hours @ $150.00 = $100.50. Mileage 10 x 2 = 20 miles.

June 22: 9:00 AM to 3:00 Georgetown county courthouse. Six hours @ $150.00 = $900.00. Mileage 37 x 2 = 74 miles.

August 05: Meeting at your office 0.67 hours @ $150.00 = $100.50. Mileage 10 x 2 = 20 miles.

August 06: Five hours searching and reading recent published studies of brain-imaging. Five hours @ $150.00 = $750.00.

August 08: Georgetown county courthouse, 12:00 to 7:00 PM. Seven hours @ $150.00 = $1050.00. Mileage 37 x 2 = 74 miles.

Three hours reviewing documents including medical records. Three @ $150.00 = $450.00.

I enjoyed working with you and Gerald Kelley. You and your staff did an excellent job in an exceedingly difficult case. Your professionalism was outstanding.

Sincerely,

Bernard Albiniak

Bernard Albiniak, Ph D
Associate Professor
Coastal Carolina University

23.59 hours × $150.00 / hour = 3,538.50

208 miles × .345 = 71.76

3610.26

DEFENSE OF INDIGENTS VOUCHER

3-38

NOTICE: Please complete your bill including FULL NAME and LAST KNOWN NON-INCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. **IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803.734.1343. FAX: 803.734.1345. e-mail: general@indigent.state.sc.us. BEFORE INCURRING THAT EXPENSE.** Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the **ORIGINAL VOUCHER** along with one copy of the supporting documentation to: South Carolina Office of Indigent Defense, P.O. Box 11433, 1122 Lady Street, Suite 1110, Columbia, SC 29211. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. **YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE:** All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

Sealed

County: Georgetown	List All Case Numbers (SE, GP, JU or Arrest Warrant Numbers): H-750173; H-750181; H-750185 of 00 H-929318; H-750183
Client's Full Name: Stephen Christopher Stanko	List All Charges: Murder; Grand Larceny; CSC w/ minor; ABWIK; Kidnaping
Last Known Address (Must Be Non-Incarcerated): [redacted]	Type of Cases (Most Serious Charge): ☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non-Capital Appeal ☐ PVP ☐ Other
Voucher Submitted Under Seal? ☑ YES ☐ NO	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Partial/Partial are considered new cases) ☑ YES ☐ NO

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $80.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $2,000 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in PVP cases.

EXPENSES

RECEIVED
MAY 22 2007
INDIGENT DEFENSE

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * DR. EVELYN CALIFF	$ 4,400.00 $2,450.00
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
(Other Expenses (Explain)) *	$

* REQUIRES PRE-APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSES ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE. Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenses where required.)	$
MAXIMUM EXPENSES allowed are $25,000 in Death Penalty cases and $500 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 4,400.00 $2,450.00

☐ Advance payment. Date of request for funds (Approval Order attached): _____ 20__

☑ Final submission; no further requests for funds. Date case concluded: August 18 2006

Method of Disposition: ☐ Plea ☐ Trial ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
William Isaac Dipps
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

S.S. or F.E.I. Number: [redacted] TELEPHONE NUMBER: 843.626.4043

APPROVED BY
Trial Judge's Signature: [signature]
Court of Common Pleas 15th Circuit
Date Approved: 5/15/07

CERTIFIED BY
Clerk of Court's Signature:
Clerk of Court's Name (County):
Date Certified:

OID FILE NO: 5-38
AGENCY VOUCHER NO: 00 5684

OID FORM 140 (10/02) Local Duplication is Authorized — PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

5816-1701

Professional Associates

Dr. Evelyn Califf, Director / Therapist
DCC, MBA, LISW, CCCIS, MACe
Psychotherapy • Counseling • Marital
Adoptions • Child, Adolescent & Adult
Parents Anonymous and TREP

MAILING ADDRESS:
P.O. Box 483
Myrtle Beach, SC 29578
Office: (843) 448-2804
Fax (843) 626-9791

STATEMENT OF EXPENSES

THE STATE OF SOUTH CAROLINA VS WILLIAM STANKO

Find below a statement listing the hours/expenses devoted to assisting the attorneys in completion of specific professional responsibilities as a Licensed Social Worker and Family Dynamics Expert in the above listed Capital Murder Case.

These hours included, but not limited to: meetings with and advising the attorneys Re: various issues concerning my specific expertise; reviewing multiple reports, evaluations, and court documents; searching for and sharing specific pertinent research /information (ie. family , mental health, etc), phone calls and interviews for specific information concerning Mr. Stanko and his family; round trip travel on various dates to the Georgetown, SC court trial location, preparing and completing requested specific expert testimony (8-18-06).

Request Payment for: Total hours utilized for completion of the above listed responsibilities, agreed upon at my usual professional rate of $100.00 per hour for expertise hours to assist attorneys who prepare and provide client defense.

49 hours @ $100. per hour = $4900.00

Respectively Submitted,

Dr. Evelyn Califf

Dr. Evelyn Califf
August 22, 2006

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@sccid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Horry	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers):
Client's Full Name: Stephen Christopher Stanko	2005-GS-26-2927
Last Known Address (Prior to Incarceration): [redacted]	List All Charges With CDR Code: Murdere, Armed Robbery

Voucher Submitted Under Seal?	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Mistrial/Retrial are considered new cases)	Type of Cases (Most Serious Charge):
☑ YES ☐ NO	☐ YES ☑ NO	☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEY'S FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * Dr Califf — JAN 15 2010	$ 7,697.71
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 7,697.71

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☑ Final submission; no further requests for funds. Date case concluded: November 19, 20 09

Method of Disposition: ☐ Plea ☐ Trial: ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:

(Also, Please Provide a valid Email Address)

William Isaac Diggs, 1700Oak Street, Suite D, Myrtle Beach, SC 29577

SS or F.E.I. Number: [redacted] TELEPHONE NUMBER: 843.626.4243

APPROVED BY:

Trial Judge's Signature

Court of Circuit: 15th Judicial Circuit

Date Approved: 1/7/10

CERTIFIED BY:

Clerk of Court's Signature

Clerk of Court For (County): Horry

Date Certified:

OID FILE NO.:

AGENCY VOUCHER NO.: 4537

PROFESSIONAL ASSOCIATES
MAILING ADDRESS:
P. O. BOX 483
MYRTLE BEACH, SC 29578
PHONE: (843) 448-5804

DR. EVELYN C. CALIFF
DCC, MEd, LMSW CCCJS, MAC
THERAPIST / DIRECTOR
FAX: (843) 626-9791

Statement

State Of South Carolina VS Stephen Stanko

All hours expended, addressed the tasks requested in my areas of expertise: Social Work, Family Dynamics / Dysfunctionalism, and as Mitigation Phase Specialist. This included (but not limited to) meetings with and advising attorneys concerning areas of my specific expertise; reviewing multiple reports, evaluations, testimonies and court documents; searching for and sharing specific pertinent research / information (i.e.. Family, mental health); phone calls to locate and interview specific witnesses; prepare genogram and develop Power Point presentation for more effective communication to jurors of my testimony.

Service Dates : October 9, 2009 through November 19, 2009

October 9, 2009	Traveled to Attorney Diggs office retrieved two notebooks of trial information to review.		
	Myrtle Beach	5 mi.	1.00 hr.
October 13, 2009	Reviewed trial notebooks (2006) obtained from Attorney Diggs office.		
	Myrtle Beach	0 mi.	4.25 hrs.
October 20, 2009	Meeting with Atty Williams and Vickie Childs, planning mitigation contacts / strategy.		
	Conway	46 mi.	3.25 hrs.
October 21, 2009	Reading testimony and reports of previous mitigation specialist.		
	Office	0 mi.	4.00 hrs.
October 22, 2009	Travel to Leiber prison to meet with defendant Stanko.		
	Leiber Prison	300 mi.	9.00 hrs.
October 24, 2009	Reviewing mental health records, Crawford psychological (2006) and progress of defendant's counseling.		
	Office	0 mi.	3.00 hrs.
October 29, 2009	Meeting with Atty Diggs, Atty Williams for report updates and planning.		
	Myrtle Beach	5 mi.	2.50 hrs.
October 30, 2009	Read testimony and notated important points of previous witnesses (2006).		
	Office	0 mi.	4.0 hrs.

November 4, 2009	Met Vicki Childs at Georgetown Sheriff's Office to review 2006 evidence.		
	Georgetown	85 mi.	6.25 hrs.
	Teleconference with Jeffrey Stanko, Mr. Baldwin, Brian Wilson, Wanda Brooks, Peggy Stanko Klisz.		
	Teleconference	0 mi.	2.50 hrs.
November 5, 2009	Atty Diggs office, meeting to discuss additional mitigation phase responsibility / attorney request.		
	Myrtle Beach	5 mi.	1.75 hrs.
November 9, 2009	Multiple attempts to contact several potential anticipated mitigation witnesses. Teleconferenced with Wanda Brooks, Clarice Wenz, Harry Devoe, Brian Wilson.		
	Teleconference	0 mi.	3.00 hrs.
November 11, 2009	To Georgetown Sheriff's officer Mike Thatcher to review additional evidence, photos and make copies.		
	Georgetown	85 mi.	5.00 hrs.
November 13, 2009	Teleconference with Warden Badison, Jill Beatty and Chaplain Van Bebbero at Lieber to identify and locate a specific witness and to inquire about any of the defendant's behavior infractions. Teleconferenced with mitigation witnesses Barbara Boland and Frank Shealy.		
	Teleconference	0 mi.	3.75 hrs.
November 15, 2009	Teleconference with Jill Beatty and Associate Warden Hunter (Leiber) to contact one of the officer witnesses.		
	Teleconference	0 mi.	1.50 hr.
	Traveled to court to provide reports to attorney. Interviewed defendant witnesses Dr. Wu and Dr. Einhorn related to clarification of specific issues.		
	Conway	84 mi.	2.00 hr.
November 16, 2009	Several contacts with Vickie Childs for correction of reports, witnesses and hours of arrival for several court witnesses.		
	Teleconference	0 mi.	1.00 hr.
November 17, 2009	Traveled to attorney Diggs office to meet with with Attorney Williams, Vickie Childs. Planning strategy for mitigation strategy for court.		
	Myrtle Beach	5 mi.	3.50 hrs.
	Developed Power Point presentation for use in my testimony.		
	Myrtle Beach	10 mi.	4.75 hrs.
November 18, 2009	Teleconference with Jeffrey Stanko, Frank Shealy, Barbara Bolen.		
	Teleconference	0 mi.	2.25 hrs.

November 19, 2009 Assisting Atty Diggs and completing court testimony.
Conway 88 mi. ✓ 6.25 hrs.

Request payment for : total hours utilized for completion of the above listed responsibilities, agreed upon at my ususal professional rate of $100.00 per hour.

Total Hours Expended ..... **74.50 hours**

Reimbursement Request ..... **74.50 @ $100.00 = $7,450.00** ✓

miles 718 x .345 = 247.71 ✓

247.71 ✓
7,697.71 ✓

Dr. Evelyn Califf
DR. EVELYN CALIFF

Dec 22, 2009
DATE

Total 7,697.71 ✓

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN INCARCERATED ADDRESS OF DEFENDANT, and attach your docket time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: scovd-va@scoid.state.sc.us, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to: South Carolina Office of Indigent Defense, P.O. Box 11433, 1122 Lady Street, Suite 1118, Columbia, SC 29211. Please insure that supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed but in no event later than June 30th of the year services were completed, in order to be paid.

County: Georgetown	List All Case Numbers (SE, OP, JU or Arrest Warrant Numbers): H-750173; H-750181; H-750185 H-929318; H-750183
Client's Full Name: Stephan Christopher Stanko	List All Charges: Murder; Grand Larceny; CSC w/ minor ABWIK; kidnaping
Last Known Address (Prior to Incarceration): [redacted]	
Voucher Submitted Under Seal? ☑ YES ☐ NO	Previous Vouchers Submitted For This Client at This Level (Trial or Appeal)? (Multi-Defendant are considered new cases) ☑ YES ☐ NO
Type of Cases (Most Serious Charge): ☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Waiver Offenses ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ MP ☐ Other	

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * DR. MARK EINHORN	$ 5,300.00
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE. Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 5,300.00

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☑ Final submission; no further requests for funds. Date case concluded: August 18, 2006

Method of Disposition: ☐ Plea ☑ Trial: ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Name (Print)	Attorney's Signature
William Isaac Diffs	
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
William Isaac Diffs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

SS or F.E.I. Number: [redacted] TELEPHONE NUMBER: 843.626.4043

Trial Judge's Signature

Court or Circuit

Date Approved

Clerk of Court's Signature

Clerk of Court's Fee (Circle): 5% 10%

Date Certified

OID FILE NO.:

AGENCY VOUCHER NO.:

OID FORM 105 (10/05) PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/05

MARC EINHORN, PSY.D.
CLINICAL & NEUROPSYCHOLOGY

365 MARKET PLACE, SUITE 400
ROSWELL, GA 30075

1561 JANMAR ROAD, SUITE E
SNELLVILLE, GA 30078

VOICE: 678.366.0068
FAX: 678.366.0068

LICENSED
GA, AL, NT, WY

August 22, 2006

William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

Invoice: State of South Carolina v. Stephen Christopher Stanko
Warrants: H-750173, H-750181, H-750183, H-750185, H-929318

$ 5,300.00 5/20 – 8/10/06 26.5 hrs

Multiple consultations with defense counsel, multiple consultations with defense psychiatrist, provided test results to prosecution's neuropsychological expert per prosecution's request, preparation of expert testimony, two (2) days travel to and from Georgetown, SC from Roswell (Atlanta), GA, one (1) full day in court including waiting time and testimony.

Tax I.D.# [redacted]

MARC EINHORN, PSY.D.
PSYCHOLOGY & PERFORMANCE SPECIALISTS, LLC

11755 POINTE PLACE, SUITE A-1
ROSWELL, GA 30075

VOICE 404.401.0555
FAX 706.344.1234

NEUROPSYCHOLOGY
FORENSIC PSYCHOLOGY
EMDR

LICENSED
GA, AL, MT, WY

December 1, 2009

William Isaac Diggs
1700 Oak Street, Suite D.
Myrtle Beach, SC 29577

Invoice: Order for Expert Services
Stephen Christopher Stanko Case
Indictment 2005 GC 26 2927

$ 262.50 11/3/09 0.75 hrs @ $350/hr consultation and preparation with defense counsel

$ 1925.00 11/6/09 5.5 hrs @ $350/hr case review including review of transcripts, review of neuropsychological testing, review of Continuous Performance Test protocol and details of administration at the medical center.

$ 700.00 11/7/09 2.0 hrs @ $350/hr case review/consultation with Dr. Sachy

$ 612.50 11/8/09 1.75 hrs @ $350/hr updated research & review of cortical and subcortical imaging, brain mapping and function

$ 1600.00 11/14/09 8.0 hrs @ $200/hr car travel from Roswell (Atlanta), GA to Conway, SC

$ 5000.00 11/15/09 per diem rate for expert testimony including waiting time

$ 1600.00 11/16/09 8.0 hrs @ $200/hr car travel from Conway, SC to Roswell (Atlanta), GA

$ 12.28 20.24 Food 11/14 – 11/16/09 receipts attached

$ 11, 720.24 Total fees and expenses

$ 10, 000.00 Total allowable charges per court order

4543
4064

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: [redacted] BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to: South Carolina Office of Indigent Defense, P.O. Box 11433, 1122 Lady Street, Suite 1116, Columbia, SC 29211. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Georgetown	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers): H-750175 ; H-750181 ; H-750185 H-929518 ; H-750183
Client's Full Name: Stephen Christopher Stanko	List All Charges: Murder, Grand Larceny, CSC W/ minor ABWIK ; kidnaping
Last Known Address prior to Incarceration: [redacted]	
Voucher Submitted Under Seal? ☑ YES ☐ NO	Previous Vouchers Submitted For This Client in this Matter (Trial or Appeal)? Bifurcated Retrial are considered new cases) ☑ YES ☐ NO
	Type of Cases (Most Serious Charge): ☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Appellate Offenses ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ MP ☐ Other

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in MP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness (es) *	$ 14,000.00
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE. Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 14,000.00

☑ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☐ Final submission; no further requests for funds. Date case concluded: _____, 20__

Method of Disposition: ☐ Plea ☐ Trial ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: [signature]	Attorney's Signature:
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

SS OR F.E.I. Number: [redacted] TELEPHONE NUMBER: 843.626.6243

Trial Judge's Signature: [signature]	
Court or Circuit: 9th Circuit	
Date Approved: 10/8/06	
Clerk of Court Signature: [signature]	
Clerk of Court for (County): Georgetown	
Date Certified: 6/29/06	
OID FILE NO.:	
AGENCY VOUCHER NO.:	

OID FORM 100 (10/02) Local Duplication is Authorized — PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

4544
3747

MARC EINHORN, PSY.D.
CLINICAL & NEUROPSYCHOLOGY

385 MARKET PLACE, SUITE 100
ROSWELL, GA 30075

1561 JANMAR ROAD, SUITE E
SNELLVILLE, GA 30078

VOICE 678.366.9055
FAX 678.366.9056

LICENSED
GA, AL, MT, WY

May 28, 2006

William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

Invoice: State of South Carolina v. Stephen Christopher Stanko
Warrants: H-750173, H-750181, H-750183, H-750185, H-929318

$ 14,000.00 5/18, 5/19/06 P.E.T. scan testing services and psychological battery testing

Tax I.D.# [redacted]

DEFENSE OF INDIGENTS VOUCHER 5-38

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NON-INCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial Judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: [redacted] BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to: South Carolina Office of Indigent Defense, P.O. Box 11433, 1330 Lady Street, Suite 1110, Columbia, SC 29211. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Georgetown	List All Case Numbers (GS, CP, IU or Arrest Warrant Numbers): H-750173 ; H-750181 ; H-750185 ; H-929318 ; H-750183
Client's Full Name: Stephen Christopher Stanko	
Last Known Address: [redacted]	List All Charges: Murder, Grand Larceny, CSC w/minor, ABWIK ; kidnaping
Voucher Submitted Under Rule 608? ☑ YES ☐ NO	Previous Voucher Paid in This Case? (Trial or Appeal? Hearing Referrals are considered new cases) ☑ YES ☐ NO
Type of Cases (Most Serious Charge): ☐ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☑ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other	

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,000 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness (es) * DR. THOMAS H. SACHY, M.D.	$ ~~10,000.00~~ 16,957.50
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

RECEIVED MAY 2 2 2007 INDIGENT DEFENSE

* REQUIRES PRE-APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE WHETHER EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $600 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ ~~10,000.00~~ 16,957.50

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20___

☑ Final submission; no further requests for funds. Date case concluded: _____, 20___

Method of Disposition: ☐ Plea ☐ Trial ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: [signature]	Attorney's Signature:
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
WILLIAM ISAAC DIGGS
1700 OAK STREET, SUITE D
MYRTLE BEACH, SC 29577

SS or F.E.I. Number: [redacted] TELEPHONE NUMBER: 843.626.4243

APPROVED BY
Trial Judge's Signature: [signature]
Court or Circuit: 9th Circuit
Date Approved: 5/15/07

CERTIFIED BY
Clerk of Court's Signature:
Clerk of Court for (County):
Date Certified:

OID FILE NO.: 5-38
AGENCY VOUCHER NO.: DV5684

OID FORM 100 (10/02) PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

5810-1707

THOMAS H. SACHY, M.D., M.Sc.
Georgia Pain and Behavioral Medicine
P. O. Box 1726, Gray, Georgia 31032
Phone number 478-986-0484
Fax number 478-986-0486
Email – gapbm@hotmail.com
www.gabehavioral.com

STANKO TIME RECORD

Initial Case File Review/Research :

Initial Consultations – Phone, Email:
Dr. Wu:
Dr. Gur:

Initial Evaluation – Travel Time:
Initial Evaluation – discussion with Bill Diggs

Initial Interview :
Additional Record Review:

Report Preparation – Record Review:

Pre-Trial Hearing: 7/31
Travel Time:
Courtroom /Preparation Time:

Trial: 8/10
Travel Time:
Courtroom /Preparation Time:

Sentencing Phase: 8/17
Travel Time:
Courtroom /Preparation Time:

~~24~~ ~~3~~ ~~2~~ ~~15~~ ~~1~~ ~~3~~ ~~4~~ ~~10~~ (82) hours spent on pre-trial preparation after court review of itemization

~~16~~ 9.6
~~16~~ 1.75

~~15~~ 9.6
~~40~~ 3.5

~~20~~ 6
~~40~~ .6
+
113.05

Tot = ~~269~~

113.05 x 150.00 =
1 16,957.50

DV5684

Supplementary hours not tallied with the above:

- **March 20, 2006**. Contact from Bill Diggs re expert witness and preparation of CV and email. .5
- **March 22, 2006.** Discussing the case with Bill Diggs, cursory review Reinaldo Rivera case, trial strategy, discussion with Marc Einhorn. 1
- **March 23, 2006**. Emails to Drs. Wu, and Einhorn, telephone conferences with each. 3
- **March 25, 2006**. Preliminary review materials Dr. Adrian Raine. 10
- **March 26, 2006** Preparation for trial; Discussions with Marc Einhorn re: findings 5
- **March 31, 2006**. Emails to Drs. Wu, and Einhorn, telephone conferences with each. 0
- **April 5, 2006.** Telephone to doctor Einhorn, discussing testing protocol. 0
- **April 6, 2006** Telephone discussions with Bill Diggs and Dr. Einhorn, re: fees and discussion of schedule for examinations. .3
- **May 1, 2006** Email to Bill Diggs re: volumetric MRI. Scheduling of same. Teleconference with Bill Diggs re: Dr. Gur. 1.2
- **May 2, 2006** Email from Bill Diggs re: Scheduling of tests at MUSC .2
- **May 4, 2006** Teleconference with Bill Diggs re: MUSC exams. E-mail letter to Dr. Einhorn .5

tot = 37

- **May 5, 2006** Teleconference with Dr. Einhorn re: scheduling of MUSC tests

  .1 0

- **May 8, 2006** Teleconference with Dr. Einhorn re: upcoming testing at MUSC. Travel directions and scheduling for testing at Georgetown.

  .1 0

- **May 9, 2006** Teleconference with Dr. Einhorn re: testing and travel.

  .1 0

- **May 12, 2006** Discussions with Dr. Einhorn, re: scheduling of psychological tests, pet scan and MRI

  1

- **May 17, 2006** Discussions with Dr. Einhorn re: testing and travel

  .5 0

- **May 18, 2006** Discussions with Dr. Einhorn re: testing schedules for the day

  .5 0

- **May 18, 2006** Discussions with Dr. Einhorn re: status of testing at both MUSC and GDC.

  1

- **May 19, 2006.** Dsicussion with Dr. Einhorn re: testing

  2

- **May 23, 2006.** discussion with Bill Diggs regarding test results .5 .2

- **May 24, 2006** call to Bill Diggs re: order from his office re: disc data.

  .1 .1

- **June 13, 2006** Discussion with Dr. Wu and Dr. Einhorn;

  2 1.8

- **June 16, 2006** Discussion with Dr. Wu to discuss PET scan data; hypofrontality.

  .5 0

- **June 20, 2006** review of PET scan images. Discussion of same with Bill Diggs

  1 2.2

tot = 16

- **June 24, 2006** review of frontal lobe damage literature 12
- **June 25, 2006** Discussions with Dr. Einhorn re neuropsychological testing, review of frontal lobe syndromes 12.
- **June 30, 2006** discussions with Dr. Thrasher regarding case, review of evidence 1
- **July 9, 2006** Discussions with Bill Diggs re testimony at trial and findings resulting from tests. ~~1~~ .9
- **July 10, 2006** Discussions with Bill Diggs. Review of final report ~~2~~ 1.2
- **July 18, 2006** Discussions with Dr. Crawford. Discussion with Bill Diggs re this unseemly behavior of Dr. Crawford. 2
- **July 21, 2006** Preparation for trial; Discussions with Bill Diggs re: updated report. review of Dr. Gur's report. ~~3~~ 2.5
- **July 22, 2006** Preparation for trial; review of research materials on psychopathy 12
- **July 25, 2006** Discussion with Bill Diggs ~~1~~ .5
- **July 25, 2006** Discussion with Bill Diggs and Dr. Thrasher re: defense testimony. 1
- **July 26, 2006** discussion with Bill Diggs re testimony required on Monday, July 31, 2006. 3
- **July 29, 2006** Discussions with Bill Diggs regarding trip schedule and testimony. 1
- **July 30, 2006** Discussion/Meeting with Bill Diggs and Dr. Thrasher. ~~4~~ 2.3

Tot = 65

Grand Total hours = ~~327~~ 82

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@scoid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Horry	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers): 2005-GS-26-2927
Client's Full Name: Stephen Christopher Stanko	
Last Known Address (Prior to Incarceration): [redacted]	List All Charges With CDR Code: Murder, Armed Robbery
Voucher Submitted Under Seal? ☑ YES ☐ NO	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Mistrial/Retrial are considered new cases) ☐ YES ☑ NO
Type of Cases (Most Serious Charge): ☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other	

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * Thomas Sachy	$
Investigative Services *	$ 40,143.11
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

$ 26,000.00

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.) $

MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.

Less amount paid by Defendant or by any person on Defendant's behalf. $

TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER: $40,143.11 → 26,000.00

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☑ Final submission; no further requests for funds. Date case concluded: November 19, 20 09

Method of Disposition: ☐ Plea ☑ Trial: ☐ Acquittal ☑ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature [signature]	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:

(Also, Please Provide a valid Email Address)

William Isaac Diggs 1700 Oak Street, Suite D, Myrtle Beach, SC 29577

SS or F.E.I. Numbe [redacted] TELEPHONE NUMBER: 843.626.4243

CID FORM 100 (10/0[illegible] Duplication is Authorized

PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

APPROVED BY:

Trial Judge's Signature

Court or Circuit

Date Approved

CERTIFIED BY:

Clerk of Court's Signature

Clerk of Court For (County): Horry

Date Certified:

OID FILE NO.:

AGENCY VOUCHER NO.: 4551

THOMAS H. SACHY, M.D., M.Sc.
Georgia Pain and Behavioral Medicine
P. O. Box 1726, Gray, Georgia 31032
Phone number 478-986-0484
Fax number 478-986-0486
Email – gapbm@hotmail.com

November 19, 2009

Mr. William Isaac Diggs
Attorney at Law
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
P: 843-626-4243
F: 843-626-5123

Re: Mr. Stephen Stanko
DOB: [redacted]
Final Invoice for Forensic Services Provided

Meeting with Attorney Bill Diggs Sunday October 25, 2009 At 247 Lana Drive Gray, GA 10 Hours @ $400 per Hour	$	4,000.00
Case File Review/Research October 26 thru November 12, 2009 Case File Review & Research: 28 Hours Report Preparation: 3 Hours Review Crime Scene Report: 2 Hours Review and Analysis Dr. Sachy's 1st Testimony: 4 Hours Review and Analysis Dr. Sachy's 2nd Testimony: 3 Hours Review and Analysis Dr. Sachy's Mitigation Testimony: 3 Hours Review and Analysis Dr. Spicer's Testimony: 3 Hours Total 46 Hours @ $400 per Hour	$	18,400.00
Consultations via Phone and Email With Dr. Wu and Dr. Gur 1 Hour Total @ $400 per Hour	$	400.00
Travel Time November 14 thru 16, 2009 14 Hours @ $400 per Hour	$	5,600.00
Courtroom Testimony Preparation November 13 and 14, 2009 12 Hours Total @ $400 per Hour	$	4,800.00
Courtroom Testimony November 14 and 15, 2009 Minimum 8 Hours per Day @ $400 per Hour	$	6,400.00
Auto Rental, Fuel, Meals, Incidentals	$	~~543.11~~ No Rec
Total Amount Due	$	40,143.11

$ 26,000.00 Pay pln Atty Rgsn

My Tax ID is [redacted] Please remit payment to the address above. Payment terms are net 30 days after receipt of invoice.

Sincerely,

Thomas H. Sachy, M.D., M.Sc.

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time slip, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: mail@postoffice.state.sc.us, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to: South Carolina Office of Indigent Defense, P.O. Box 11433, 1122 Lady Street, Suite 1150, Columbia, SC 29211. Please ensure that supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed in ink accepted. Orders submitted for payment and payments ensuing the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed but in no event later than June 30th of the year services were completed, in order to be paid.

Bill To

County: Georgetown	List All Case Numbers (SE, GP, JU or Arrest Warrant Numbers): H-750173; H-750181; H-929318; H-750183
Client's Full Name: Stephen Christopher Stanko	List All Charges: Murder; Grand Larceny; CSC w/ minor; ABWIK; Kidnaping
Client's Address: [redacted]	
Voucher Submitted Under Seal? ☑ YES ☐ NO	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Bail Jail Hold are considered one case) ☑ YES ☐ NO
Type of Cases (Most Serious Charge): ☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Probation Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ PP ☐ Other	

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $90.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,200 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in PP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examinations *	$
Expert Witness(es) * DR JAMES W. THRASHER, JR. M.D.	$ 9,387.50
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE. Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $600 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 9,387.50

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☑ Final submission; no further requests for funds. Date case concluded: August 18, 2006

Method of Disposition: ☐ Plea ☑ Trial ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.I.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
William Isaac Diffs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

SS or F.I.I. Number: [redacted] TELEPHONE NUMBER: 843.626.4243

Trial Judge's Signature

Court or Circuit

Date Approved

Clerk of Courts Signature

County of Circuit (County)

Date Certified

OID FILE NO.:

AGENCY VOUCHER NO.:

OID FORM 100 (10/02) Local Duplication is Authorized — PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

Invoice

JAMES WINFIELD THRASHER JR M.D.

1113 48TH AVENUE NORTH
SUITE 117
MYRTLE BEACH, SC 29577-5441

Date	Invoice #
8/24/2006	1

Bill To
WILLIAM I DIGGS 1700 OAK ST STE D MYRTLE BEACH SC 29577

P.O. No.	Terms	Project

Quantity	Description		Rate	Amount
4	INITIAL EVALUATION STANKO	July 7, 2006	250.00	1,000.00
2	2 HOURS TRAVEL TIME	July 7, 2006	150.00	300.00
4	REVIEW PRIOR RECORDS	July 8, 2006	150.00	600.00
6	REVIEW OF RECORDS	July 14, 2006	150.00	900.00
2.5	FOLLOW-UP INTERVIEW W/ STANKO	July 28, 2006	250.00	625.00
2	REVIEW OF CASE W/ MR DIGGS	July 28, 2006	150.00	300.00
2	2 HOURS TRAVEL TIME	July 28, 2006	150.00	300.00
9	INCLUDES FINAL RECORD REVIEW, REPORT WRITING, PROOFREADING & CORRECTIONS & FINAL PROOFREADING 7/30/06		150.00	1,350.00
1	TRANSCRIPTIONIST - FLAT FEE FOR WEEKEND WORK	July 30, 2006	300.00	300.00
2	CALLED TO COURT THEN CANCELLED, GUILT PHASE	August 8, 2006	150.00	300.00
2	FOR COURT APPEARANCE ,GUILT PHASE	August 9, 2006	150.00	300.00
4	TESTIMONY AND WAIT TIMES, GUILT PHASE	August 9, 2006	150.00	600.00
6.5	WAIT AT COURT HOUSE TO BE CALLED PENALTY PHASE	August 16, 2006	150.00	975.00
2	WAIT AT COURT HOUSE TO BE CALLED PENALTY PHASE	August 16, 2006	150.00	300.00
2	TRAVEL TIME - PENALTY PHASE	August 17, 2006	150.00	300.00
2	WAIT TIME AND APPEARANCE TIME, PENALTY PHASE	August 17, 2006	150.00	300.00
2	MEETING W/ DR SACHY - REVIEW OF EVIDENCE	July 30, 2006	150.00	300.00
1	TRAVEL TIME FOR MEETING W/DR SACHY	July 30, 2006	150.00	150.00
1	MEETING W/MR DIGGS - THRASHER OFFICE	June 29, 2006	150.00	150.00
0.25	TELEPHONE CONFERENCE W/MR. DIGGS	June 14, 2006	150.00	37.50

SC V STEPHEN C STANKO

Total $9,387.50

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@sccid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Horry	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers):
Client's Full Name: Stephen Christopher Stanko	2005-GS-26-2927
[redacted]	List All Charges With CDR Code: Murder, Armed Robbery

Voucher Submitted Under Seal?	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Mistrial/Retrial are considered new cases)	Type of Cases (Most Serious Charge):
☑ YES ☐ NO	☐ YES ☑ NO	☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * Dr James Thrasher	$ 2,625.00
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 2,625.00

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☑ Final submission; no further requests for funds. Date case concluded: November 19, 20 09

Method of Disposition: ☐ Plea ☐ Trial: ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:

(Also, Please Provide a valid Email Address)

William Isaac Diggs, 1700 Oak Street, Suite D, Myrtle Beach, SC 29577

SS or F.E.I. Number: [redacted]

TELEPHONE NUMBER: 843.626.4243

APPROVED BY:

Trial Judge's Signature:

Court of Circuit: 15th Judicial Circuit

Date Approved: 12/7/10

CERTIFIED BY:

Clerk of Court's Signature

Clerk of Court For (County): Horry

Date Certified:

OID FILE NO.:

AGENCY VOUCHER NO.: 4555

J. W. Thrasher, Jr. M.D.
Waccamaw Center for Mental Health
164 Waccamaw medical park drive.
Conway, South Carolina 29526
843-347-4888

December 20, 2009

William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

Re: Stephen Stanko

Dear Bill:

I am submitting my bill for professional and expert testimony in the Stephen C. Stanko capital murder case.

November 7, 2009 Meeting at the defense attorney's office discuss the testimony
1.5 hours

November 14, 2009 testimony first phase of trial and waiting and travel time
5 hours

November 18, 2009 travel time and waiting time
3 hours

November 19, 2009 testimony of second phase of trial waiting time and travel time
3 hours

Reviewing the documents and the testimony from the first trial and research in this case
5 hours

Total hours 17.5 hours x $ 150.00= $ 2,625.00 ✓

I was a pleasure working with you in this matter.

Sincerely yours

s/James Thrasher

James Thrasher

DEFENSE OF INDIGENTS VOUCHER 5-38

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN INCARCERATED ADDRESS OF DEFENDANT, and attach your certified time slip, Order of Appointment and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE OFFICE OF INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, email: ... BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER along with one copy of the supporting documentation to: South Carolina Office of Indigent Defense, P.O. Box 11433, 1122 Lady Street, Suite 1018, Columbia, SC 29211. Please insure that supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed but in no event later than June 30th of the year services were completed, in order to be paid.

County: Georgetown	List All Case Numbers (GS, GP, JU or Arrest Warrant Numbers): H-750173; H-750181; H-750185 4000 H-929318; H-750183
Client's Full Name: Stephen Christopher Stanko	
Last Known Address: [redacted]	List All Charges: Murder; Grand Larceny; CSC w/minor ABWIK; Kidnaping
Voucher Submitted Under Seal? ☒ YES ☐ NO	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? ☒ YES ☐ NO (Retrials are considered new cases)
Type of Cases (Most Serious Charge): ☒ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ PP ☐ Other	

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES

	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$

DEATH PENALTY CASE FEES

	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$

TOTAL FEES: $

MAXIMUM FEE ALLOWED IS $15,000 per attorney in Death Penalty cases, $3,000 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in PP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness (es) * DR. JOSEPH WU	$ ~~15,000.00~~ 11,137.50 MQ
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

RECEIVED MAY 22 2007 INDIGENT DEFENSE

* REQUIRES PRE-APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE AMOUNT AUTHORIZED. ALL OVERALL EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditures where required.) $

MAXIMUM EXPENSES Allowed are $25,000 in Death Penalty cases and $500 in all other cases.

Less amount paid by Defendant or by any person on Defendant's behalf. $

TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER: $ ~~15,000.00~~ 11,137.50 MQ

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20___
☐ Final submission; no further requests for funds. Date case concluded: _____, 20___
Method of Disposition: ☐ Plea ☐ Trial ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: William Diggs	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☒ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577

SS or F.E.I. Number: [redacted] TELEPHONE NUMBER: 843.626.4243

APPROVED:
Trial Judge's Signature: [signature]
Court or Circuit: 9th Circuit
Date Approved: 5/15/07

CLERK CERTIFY
Clerk of Court's Signature:
Clerk of Court For (County):
Date Certified:

OID FILE NO.: 5-38
AGENCY VOUCHER NO.: OV5684

OID Form 498 (10/02) Count Duplication Is Authorized — PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

3810-1701

To: William Isaac Diggs
1700 Oak St. Suite D
Myrtle Beach, South Carolina 29577-3574
Phone (843) 626-6249
Fax (843) 626-6123
email: william.diggs@myrtlebeachlaw.com

From: UC REGENTS
(Attn: Joseph C. Wu, M.D.)
Room 109, Irvine Hall
UCI-COM BIC
Irvine, California
92697-3960

Phone: (949) 824-7857
Fax: (949) 824-8650

TaxID: 95-4482087

Date: 20-Aug-06

RE:
Case: Stanko
Court:

Subject	Date	Day	Start time	End time	Durati	type	rate	amount
Discussion with Ruben Gur to see what type of MRI sequences needed to get volumetric analysis	4/17/2006	Mon	8:00 AM	10:00 AM	1	DI	200	200
Review Stanko case	6/16/2006	Fri	7:00 AM	9:30 AM	2.5	R	200	500
Stanko discussion	6/16/2006	Fri	1:00 PM	1:30 PM	0.5	DI	200	100
Supervise development of Stanko 3d PET video	6/19/2006	Mon	1:00 PM	3:00 PM	2	R	200	400
Email Diggs re: Stanko case	6/20/2006	Tue	10:45 AM	11:00 AM	0.25	R	200	50
Review info on evidentiary and admissibility issue on PET imaging	6/23/2006	Fri	7:30 PM	8:30 PM	1	R	200	200
Review info on evidentiary and admissibility issue on PET imaging	6/27/2006	Tue	7:00 AM	7:30 AM	0.5	R	200	100
Clinical report on Stanko	7/3/2006	Mon	9:00 AM	10:00 AM	1	R	200	200
Quantitatively analyze ratio of glucose metabolism of Stanko PET scan	7/19/2006	Wed	5:00 PM	6:00 PM	1	R	200	200
Review Ruben Gur volumetric MRI analysis of Stanko	7/21/2006	Fri	6:00 PM	7:00 PM	1	R	200	200
Talk to Diggs re: Stanko trial	8/6/2006	Sun	12:30 PM	1:00 PM	0.50	DI	200	100
Travel to Stanko trial and record enviet from Irvine, California to Myrtle Beach, SC	8/6/2006	Tue	5:00 PM	10:00 AM	13.00	T	200	2600

DV5284

Trial (Stanko) discussion with attorney, trial prep, trial testimony	5/9/2006 Wed	11:00 AM	6:00 PM	7.00 C	200	1400
Discussion with Sachy re: Stanko	5/9/2006 Wed	7:00 PM	9:00 PM	2.00 DI	200	400
Travel from Stanko trial from Myrtle Beach, SC back to Irvine, CA	5/10/2006 Thur	5:00 AM	4:00 PM	11.00 T	200	2200
				Expert witness fees from 4/17 to 5/10/06		$5,850
Reimbursement for Taxi fare from LAX to Irvine on 5/10/06						$110.00
Part 1: Total requested for expert witness fee and reimbursement for services rep from 4/17/06 to 5/10/06						$5,760.00

Addendum

Preparation for sur-rebuttal	5/13/2006 Sun	7:00 PM	8:00 PM	1 R	200	200
Travel to Stanko trial and record review from Irvine, California to Myrtle Beach, SC.	5/15/2006 Tue	8:00 PM	10:00 AM	13.00 T	200	2600
Trial (Stanko) discussion with attorney, trial prep, sur rebuttal trial testimony	5/16/2006 Wed	10:00 AM	4:00 PM	6.00 C	200	1200
Travel from Stanko trial from Myrtle Beach, SC back to Irvine, CA	5/17/2006 Thur	5:00 AM	4:00 PM	11.00 T	200	2200
				Expert witness fees from 5/11 to 5/17/06		$6,200
Reimbursement for Taxi fare from LAX to Irvine on 5/17/06						$110.00
Part 2: Total requested for expert witness fee and reimbursement for services from 5/11/06 to 5/17/06						$6,310.00
Grand total (Part 1 + Part 2) from 4/17 to 5/17/06						$12,070.00

Fee schedule

R:	Minimum retainer:	2000
DI:	medical record review:	200/hr
DR:	discussion time	200/hr
C:	deposition time (e.g. testimony), meeting & discussion	200/hr
CF:	court trial time (4 hour minimum)	200/hr
T:	cancellation fee (2 hour minimum if less than 72 hour	200/hr
	travel time:	200/hr

Please make checks payable to : UC regents

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@sccid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Horry	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers): 2005-GS-26-2927
Client's Full Name: Stephen Christopher Stanko	
Last Known Address (Prior to Incarceration): [redacted]	List All Charges With CDR Code: Murder, Armed Robbery

Voucher Submitted Under Seal? ☑ YES ☐ NO

Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? [Mistrial/Retrial are considered new cases] ☐ YES ☑ NO

Type of Cases (Most Serious Charge): ☑ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,600 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * Joseph C Wu M.D.	$ 7,100.00 ✓
Investigative Services *	$
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.)	$
MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.	
Less amount paid by Defendant or by any person on Defendant's behalf.	$
TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER:	$ 7,100.00 ✓

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☑ Final submission; no further requests for funds. Date case concluded: November 19, , 20 09

Method of Disposition: ☐ Plea ☑ Trial: ☐ Acquittal ☑ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: [signature]	Attorney's Signature
Check Applicable Category: ☐ Public Defender ☑ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:

(Also, Please Provide a valid Email Address)

William Isaac Diggs, 1700 Oak Street, Suite D, Myrtle Beach, SC 29577

SS or F.E.I. Number: [redacted] TELEPHONE NUMBER:

APPROVED BY:

Trial Judge's Signature: [signature]

Court or Circuit: 15th Judicial Circuit

Date Approved: 12/10

CERTIFIED BY:

Clerk of Court's Signature

Clerk of Court For (County): Horry

Date Certified:

OID FILE NO.:

AGENCY VOUCHER NO.: 456 4013

To: William Isaac Diggs
1700 Oak St. Suite D
Myrtle Beach, South Carolina 29577-3574
Phone (843) 626-4243
Fax (843) 626-5123
email: william.diggs@myrtlebeachlaw.com

From: UC REGENTS
(Attn: Joseph C. Wu, M.D.)
Room 109, Irvine Hall
UCI-COM BIC
Irvine, California
92697-3960

Phone: (949) 824-7867
Fax: (949) 824-9650

TaxID: [redacted]

Date: 22-Nov-09

RE:
Case: Stanko
Court:

Subject	Date	Day	Start time	End time	Duratic	type	rate	amount
Review Stanko case transcripts, and records	11/12/2009	Thur	2:00 PM	6:00 PM	4	R	200	800
Review Stanko case transcripts, and records	11/13/2009	Fri	2:00 PM	6:00 PM	4	R	200	800
Travel to Stanko trial	11/14/2009	Sat	1:00 PM	10:00 PM	9	T	200	1800
Court time, trial testimonhy	11/15/2009	Sun	9:00 AM	4:00 PM	7	C	200	1400
Meet with attorney to discuss case	11/15/2009	Sun	6:00 PM	8:00 PM	2	Di	200	400
Travel from Stanko trial	11/16/2009	Mon	5:00 AM	2:30 PM	9.5	T	200	1900
					Expert witness fees from			$7,100

Fee schedule

R:	Minimum retainer:	2000$
DI:	medical record review:	200/hr
DE:	discussion time	200/hr
C:	deposition time (e.g. testimony), meeting & discussion ti	200/hr
CF:	court trial time (4 hour minimum)	200/hr
T:	cancellation fee (2 hour minimum if less than 72 hour ca	200/hr
	travel time:	200/hr

Please make checks payable to : UC regents

Curriculum Vitae

RUSSELL STETLER

January 2015

Personal

Address:	National Mitigation Coordinator Office of the Federal Public Defender 555 Twelfth Street, Suite 650 Oakland, California 94607
Telephone:	510.637.1903
Fax:	510.637.3507
E-mail:	russell_stetler@fd.org
Born:	January 15, 1945 Philadelphia, Pennsylvania

Career

2005-present National Mitigation Coordinator, Federal Death Penalty Resource Counsel Project and Habeas Assistance and Training Counsel Project

National position established to provide assistance to counsel and the federal courts in (a) understanding the nature, scope, and use of mitigation evidence in capital cases and (b) meeting the demand for individuals skilled in the investigation, development, and presentation of evidence that supports a sentence other than death in capital proceedings. Duties include case consultations, expert assistance, recruitment and training, as well as research and dissemination of material relating to mitigation issues.

1995-2005 Director of Investigation & Mitigation
New York Capital Defender Office

Director of investigation and mitigation, overseeing staff in three statewide offices responsible for direct representation and assistance to institutional defenders and appointed counsel in all cases involving death-eligible defendants pretrial and death-sentenced prisoners on direct appeal. Responsible for training and development of training materials and publications; development of investigative plans for both guilt and sentencing investigations in death-eligible cases statewide; supervision of CDO investigative

staff; consultation with institutional defenders and appointed counsel; and coordination of expert consultations.

1990-95	Chief Investigator, California Appellate Project, San Francisco, California
	Chief of unit of investigators and mitigation specialists assisting court-appointed counsel representing death-sentenced prisoners in habeas corpus proceedings before the California Supreme Court and federal courts. Coordinator of CAP's statewide training of court-appointed counsel in investigation of capital post-conviction habeas corpus claims. Member of CAP's management and resource allocation committees.
1980-90	Private investigator, San Francisco, California
	Private practice emphasizing trial preparation in complex litigation in both state and federal court, with specialization in capital cases. Investigated over 100 homicide cases (roughly a third of which were capital cases) on behalf of defense counsel. Experience also included defense of high-profile espionage, drug, and RICO cases.
1978-80	Faculty, Caribbean School, Ponce, Puerto Rico
1973-78	Broadcast reporter/editor, Internews, Berkeley, California
1971-73	Editor, Ramparts Press, Berkeley, California (Consulting editor through 1980)
1969-70	Research grant recipient, Atlantic Peace Foundation, London, England
1968-69	Faculty, Hendon College, London, England
1966-68	Research assistant to Bertrand Russell and staff member, Bertrand Russell Peace Foundation, London and New York

Professional publications

In press	Coauthor with Aurélie Tabuteau, *The ABA Guidelines: A Historical Perspective*, 43:3 HOFSTRA L. REV. *(forthcoming)*.
2014	Book review, *Just Mercy: A Story of Justice and Redemption* by Bryan Stevenson. 38:8 THE CHAMPION 58 (October 2014).
	Remembering Michael Millman, 41:3 FORUM 22 (September 2014_ 2014).
	The U.S. Death Penalty and the Vital Role of Volunteers, 33 AMICUS JOURNAL 27 (2014).
	Mental Health Evidence and the Capital Defense Function: Prevailing Norms, 82 UMKC L. REV. 407 (2014).
2013	Coauthor with W. Bradley Wendel, *The ABA Guidelines and the Norms of Capital Defense Representation,* 42 HOFSTRA L. REV. 635 (2013).
2010	*Investigations in a Criminal Case*, chapter 11 in NAT'L LEGAL AID AND DEFENDER ASSOC., INTERNATIONAL LEGAL AID & DEFENDER SYSTEM DEVELOPMENT MANUAL (Christie S. Warrren ed., November 2010)
2009	*The Unknown Story of a Motherless Child*, 77 UMKC L. REV. 947 (2009).
2008	*The Mystery of Mitigation: What Jurors Need to Make a Reasoned Moral Response in Capital Sentencing*, 11 U. PA. J.L. SOC. CHANGE 237 (2007-2008).
	Coauthor with RICHARD BURR, MATTHEW CROSS, DAVID FREEDMAN, ANNE JAMES, AND KATHY WAYLAND, A PRACTITIONER'S GUIDE TO REPRESENTING CAPITAL CLIENTS WITH MENTAL DISORDERS AND IMPAIRMENTS (Bishop Auckland, U.K.: International Justice Project, 2008)
	Killing Fewer, and Killing Carefully: Death Penalty Defense in China on the Eve of the Beijing Olympics, 32:5 THE CHAMPION 22 (July 2008).
	Coauthor with Mark E. Olive, *Using the Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty*

Cases to Change the Picture in Post-Conviction, 36 HOFSTRA. L. REV. 1067 (2008).

2007 *Mitigation Investigation: A Duty That Demands Expert Help But Can't Be Delegated,* 31:2 THE CHAMPION 61 (March 2007).

2006 *Why Capital Cases Need a Full Defense Team,* 21:6 FOR THE DEFENSE, 1 (October-November 2006).

2005 *Beyond* Wiggins*: Tipping Points and Evolving Standards,* 29:6 THE CHAMPION 49 (July 2005).

2004 Coauthor with Kathleen Wayland, Ph.D., *Dimensions of Mitigation,* 28:5 THE CHAMPION 31 (June 2004).

Coauthor with Michael R. Smith, *China's new public defenders,* 28:3 THE CHAMPION 16 (April 2004).

2003 Coauthor with ROBERT L. GOLDSTEIN, M.D., *Punishment,* chapter 87 in PRINCIPLES AND PRACTICE OF FORENSIC PSYCHIATRY (Richard Rosner, M.D., ed., 2nd edition; London: Arnold Health Sciences, 2003; U.S. distribution Oxford University Press).

Dying Twice: Incarceration on Death Row, 31 CAPITAL UNIVERSITY LAW REVIEW 861 (2003).

Commentary on Counsel's Duty to Seek and Negotiate a Disposition in Capital Cases (ABA Guideline 10.9.1), 31 HOFSTRA L. REV. 1157 (2003).

2002 *Investigating the State's Evidence: A Guide to Postconviction Investigation of the Sources of Wrongful Capital Convictions* (Washington, D.C.: Habeas Assistance and Training Counsel Project of the Administrative Office of the U.S. Courts).

2001 Coauthor with Leah George, M.S.W., *Dead Men Talking: Mental Illness and Capital Punishment,* in FORENSIC MENTAL HEALTH: WORKING WITH OFFENDERS WITH MENTAL ILLNESS (Gerald Landsberg, D.S.W., and Amy Smiley, Ph.D.,eds.; Kingston, New Jersey: Civic Research Institute, Inc., 2001).

Mitigation Evidence in Capital Cases, CALIFORNIA DEFENDER, First Quarter (Spring 2001) 54 (updated and expanded version of 1999 article from THE CHAMPION).

Mental Disabilities and Mitigation, CALIFORNIA DEFENDER, Second-Third Quarter (2001) 48 (updated and expanded version of 1999 article from THE CHAMPION).

1999 *Postconviction investigation in death-penalty cases*, 28:7 THE CHAMPION 41 (August 1999).

Why capital cases require mitigation specialists, 3:3 INDIGENT DEFENSE 1 (July/August 1999).

Working with the victims' survivors in death-penalty cases, 28:5 THE CHAMPION 42 (June 1999).

Mental disabilities and mitigation, 28:3 THE CHAMPION 49 (April 1999).

Mitigation evidence in death-penalty cases, 28:1 THE CHAMPION 35 (January-February 1999).

Books

Author THE BATTLE OF BOGSIDE (London: Sheed & Ward, 1970)

Editor THE ASSASSINATIONS: DALLAS AND BEYOND (New York: Random House, 1976)

Awards

2004 National Legal Aid and Defender Association, Life in the Balance Achievement Award

2005 National Association of Criminal Defense Lawyers, President's Commendation

2008 California Attorneys for Criminal Justice, President's Award, CACJ 35th Anniversary

2010 National Association of Legal Investigators, Legacy Member Award

2013 California Attorneys for Criminal Justice, President's Award

Professional memberships

Association of Federal Defenders
California Attorneys for Criminal Justice (associate)
California Association of Licensed Investigators
National Association of Criminal Defense Lawyers (associate)
National Association of Legal Investigators
National Legal Aid and Defender Association
New York State Defenders Association

Advisory board service

Editorial advisory board, National Association of Criminal Defense Lawyers, THE CHAMPION

Atlantic Center for Capital Representation, Philadelphia, Pennsylvania

Licensure

Private investigator, California license #PI-8650 (1981)

Education

1962-66	Haverford College, B.A., with honors in philosophy
1966-67	Graduate Faculty, New School for Social Research

Dale M. Davis
Criminal Mitigation Services

P. O. Box 50944
Summerville, SC 29485
Phone: 843-871-6176
Fax: 843-875-6626
e-mail: dalemdavis@bellsouth.net

September 20, 2005

William Diggs, Esquire
1700 N Oak St
Myrtle Beach, SC 29577

RE: State v. Stephen Stanko

Dear Mr. Diggs:

I spoke to Gerald Kelly today regarding the Stanko case. He asked that I send you the information provided to him previously. Information regarding my fees as well as my affidavit and resume are enclosed. I can have the affidavit notarized and mailed right away if you would like.

A case of this type generally requires approximately 400 hours to investigate and document thoroughly. My hourly fee is $50 plus mileage and expenses (postage, long distance calls, copy fees, travel when required, office supplies unless provided by the attorney, etc). Generally, one thousand dollars ($1000) is enough to cover expenses unless a lot of travel is involved.

Since Mr. Stanko lived for many years in Goose Creek and graduated from Goose Creek High School, I expect a lot of the record gathering and interviews will be very close to my home in Summerville which will help reduce milcage and travel expenses. There was a long article aboat him in the Post & Courier soon after it happened that had multiple leads for mitigation.

I doubt that you will remember me but a little over two years ago, I called you regarding an expert in false/coerced statements and/or confessions that you had used in a Myrtle Beach case. You gave me Dr. Albiniak's name and we used him in a Beaufort death penalty case that I worked on.

I trust this covers all needed information and hope to have the opportunity to work with you and Gerald on this case. If you need any additional information, you can reach me at the number above or on my cell phone at 843-670-5433.

With warmest regards,

Dale M. Davis
Capital Mitigation Specialist

Enclosures as stated above

DALE MCNARON DAVIS

Post Office Box 50944
Summerville, South Carolina 29485

Phone: (843) 871-6176
Fax: (843) 875-6626
e-mail: dalemdavis@bellsouth.net

EDUCATION

Master of Criminal Justice	University of South Carolina, Columbia, SC, 1999
Bachelor of Science	Charleston Southern University, Charleston, SC, 1995
Associates in Business Paralegal Certificate	Trident Technical College, Charleston, SC, 1991

EXPERIENCE

July 1998 – Present **CAPITAL MITIGATION SPECIALIST**

- Capital: More than twenty (20) death penalty cases at the trial level and post-conviction level in State, Federal and Military Courts
- Non-capital mitigation: Eight (8)
- Other non-capital experience: Multiple felonies including Murder and Rape; Juveniles; Federal sentence reductions and downward departures

Oct. 1994 – Feb. 2000 **JAIL-PUBLIC DEFENDER LIAISON**
Charleston County Sheriff's Office
Charleston, SC

Jan. 1991 – Oct. 1994 **INVESTIGATOR / PARALEGAL**
Charleston County Public Defender's Office
Charleston, SC

Jan. 1979 – Dec. 1989 **SOLE PROPRIETOR – SMALL BUSINESS OWNER**

OTHER PROFESSIONAL TRAINING

- National Association of Sentencing Advocates Annual Training Conference, 2004
- Life in the Balance: Capital Case Training for Mitigation Specialist, Defense Investigators, & Defense Attorneys 1998, 1999, 2000, 2002, 2004
- Georgia Annual Capital Defense Training Seminar 2002, 2003, 2004, 2005
- Litigation Training: Investigation and Proving Mental Retardation, 2003
- Third National Seminar on Mental Health and Criminal Law, 2002
- Death Penalty & Mitigation Investigation Workshops – Public Defender Conferences 1995 – 2003 (Presenter in 2002)
- Advanced Interviewing Skills and Techniques
- MUSC Forensics Seminar
- Resisting the Abolition of Childhood: In Defense of Children in the Juvenile Court
- Medical Evidence in Child Sexual Abuse/Assault
- Serving the Best Interest of Children: Dealing with child victims of sexual and physical abuse, their families and their abusers
- Conflict Resolution
- Alternative Dispute Resolution: Mediation and Arbitration
- Juvenile Arbitration Training
- Guardian Ad Litem Volunteer Program
- How to Deal with Difficult People

- Interpersonal Communication Skills

ACADEMIC PAPERS

Thesis: Dale M. Davis. Trying Juveniles as Adults: Legislation Based on Judicious Need? Dispositions of 16 Year-olds Charged as Adults with Presumptive Juvenile Sentences for Comparison. College of Criminal Justice, University of South Carolina, 1999.

Dale M. Davis. Child Abuse and Future Criminal Behavior. College of Criminal Justice, University of South Carolina, 1998.

Dale M. Davis. Mitigation in Death Penalty Cases. College of Criminal Justice, University of South Carolina, 1998.

Dale M. Davis. Judaism as a Culture. Citadel Graduate School, 1998.

Dale M. Davis. Gullah Art as a Language. Citadel Graduate School, 1998.

Dale M. Davis. TV Violence and Aggression. Citadel Graduate School, 1997.

Dale M. Davis. Juveniles as Adults. College of Criminal Justice. University of South Carolina, 1996.

Dale M. Davis. Street Violence and Adolescents. Charleston Southern University, 1995.

Dale M. Davis. Investigating the Fairness of the Death Penalty. Charleston Southern University, 1994.

Dale M. Davis. Does the Viewing of TV Violence Affect Behavior? Charleston Southern University, 1994.

PROFESSIONAL AFFILIATIONS

National Legal Aid and Defender Association
National Association of Sentencing Advocates
South Carolina Law Enforcement Officers Associations
Licensed Private Investigator

Dale M. Davis

Criminal Mitigation Services

P. O. Box 50944
Summerville, SC 29485
Phone: 843-871-6176
Fax: 843-875-6626
e-mail: dalemdavis@bellsouth.net

February 12, 2006

William I. Diggs, Esquire
1700 N Oak St
Myrtle Beach, SC 29577-3574

RE: *State v. Stephen Stanko*

STATEMENT #1

September 20, 2005 through February 8, 2006:

62.73 Hours @ $60 per hour	$ 3763.80
611 Miles @ $ .345 per mile	210.80 (210.795)
Amount Due	**$ 3974.60**

State v. Stephen Stanko

TIME LOG

Mitigation Investigator: Dale M. Davis

Bill #1

Date	Time/ Mileage	Activity
2005		
9/20/05	.33 Hour	Second call from atty re CV, affidavit, etc to other atty; prep'd initial ltr, affidavit & e-mailed.
11/18/05	.5	Call from atty re status, discussion, requested resume, affidavit be notarized mailed, mailed req'd docs w ltr.
2006		
1/11/06	2	Call from lawyer re funding approved, lengthy discussion re case & meeting client, call from investigator, open and set up file, format blank subpoenas, prep multiple types of releases for client to sign at visit on Friday
1/13/06	7.25 164 mi	Travel to & from Georgetown, initial interview with client, Clerk of Ct @ courthouse; multiple e-mails w atty & investigator, scan articles from P&C & e-mailed, discussion
1/15	3.25	Compile info from interview, prep witness list with contact info, relshp & notes; prep'd letters to send w rel for multiple institutions to collect records; research for location of agencies & people
1/17	1.25	Met atty in Beaufort to pick up discovery materials for investigators; case discussion re same (I was already in Beaufort on another case so no mileage.)
1/18/06	1.5 37 miles	Met with fact investigator, delivered discovery, discussed materials
1/19/06	7.2	Organized discovery, set up files, read portion of discovery, noted for further inquiry, call from SCDC, call to counselor, compile mitigation witness contact index
1/20/06	3.25	Review client interview for agencies w records; prep letters & contacts to multiple agencies re record collections, faxed/mailed ltrs w/ releases; call to/from MB atty office re docs, case status, experts; set up release/subpoena tracking system index; contact prison adapt expert re updated CV; e-mails
1/23	1.2	Contact witnesses, brief discussion, arrange to meet; add info obtained to witness location; call & interview witness, memo re same
1/24	7 27 miles	High Sch – interview multiple witnesses from school years. Add additional witnesses to contact list, begin review notes for clarification; e-mails
1/26	.75	Contact w/ family members, yearbk, docs prep re see atty & client tomorrow
1/27	10.75 hrs 172 miles	Travel Myrtle Beach & back; team meeting w atty, investigator, paralegal; visit crime scene area (Met fact investigator in Georgetown & rode to Myrtle Beach with her.)
1/30	.33	Call to & from teachers re appt tomorrow; contact Berkeley Pub Def re file from prior representation, prep ltr, faxed with rel.
1/31	4.5 35 mi	High School for more interviews, parents' home, former neighbors; rec'd school records, reviewed
2/5/06	2.5	Go over sister's prior info, school records, MH records. 1.75 hr interview w sister
2/6	7.75 176	Georgetown, visit with client; Call to P&C re obit for brother, Chas. So. Library microfilm; Research locate Clarendon County coroner; prep subpoenas;
2/7	1	Call to brother, interviewed, edit notes for clarification
2/8	1.25	Copy records & yrbk photos, call from sister with additional info, begin prep for notebook
		Time: 62.73 Hours Mileage: 576 miles

Dale M. Davis
Criminal Mitigation Services

P. O. Box 50944
Summerville, SC 29485
Phone: 843-871-6176
Fax: 843-875-6626
e-mail: dalemdavis@bellsouth.net

March 31, 2006

William I. Diggs, Esquire
1700 North Oak Street
Myrtle Beach, SC 29577-3574

RE: ***State v. Stephen Stanko***

STATEMENT #2

February 16, 2006 through March 28, 2006:

63.41 Hours @ $60 per hour	$ 3804.60
739 Miles @ $ .345 per mile	254.96 (254.955)
Expenses	245.01
Amount Due	**$ 4304.57**

Expenses:

Copies	13.77	
Office supplies	19.29	
Stamps	7.80	
Travel	136.09	(Airline ticket/rental car)
Food	56.41	
Long distance	11.65	
	$245.01	

State v. Stephen Stanko

TIME LOG

Mitigation Investigator: Dale M. Davis

Bill #2

2006		
2/16/06	.75	Mutiple calls to old coroners attempt locate brother's records.
2/17	.3	Call to county & then state vital records re obtaining death certificate
2/19	.25	Call to mom, review & copy portion of Hall report for follow up
2/22	4.75 37 mi	Call to parents re got copy of letter, need to talk to her re head injury 1985; call from mom, appt to see aft., review Hall social hx for ?'s; prep release & birth info for mom; met with several family members & interviewed
2/27	.75	Go over notes from interviews & docs provided by client in prep for seeing client tomorrow
2/28	11.5 175 mi	Travel, met w client; interviewed multiple witnesses; photos
3/7	.25	Call to brother re seeing on Sat., discussion of info available & sites where located
3/8	6.25	Call from Berk PD office re file; location problems, searched file for old CP#'s, clerk of ct.; lengthy search of web blogs, etc. extensive info; call to former i/m, interview; e-mails w brother; conferences w investigator re search for former gf; Calls to Clarendon Cty re locating records
3/9	5.33 148 mi	Travel Manning - clerk of ct, health dept, police dept, corner's office, fire dept for documents; lenghty discussion w sister re status & requested info
3/10	2.25	Multiple calls to atty, investigator, e-mails, witness
3/11	4.5	Met with witnesses in Atlanta, interviews (no travel time charged)
3/18	.5	Begin organization & notebook assembly
3/19	2.2	Complete organzatn SCDC (gen pop & med) documents, continue notebook assemby
3/22	.5	e-mails, phone calls atty, investigator
3/26	2.33 38 mi	e-mails attys, investigator; check status of medical records, calls re same; memo re media & e-mail; Goose Creek see witnesses & contact family
3/27	10.25 164 mi	Team meeting Myrtle Beach, provide docs, interview former employers
3/28	10.75 177 mi	Sheriff's office, go through three large boxes of personal documents belonging to client seized from Ling residence
		Time: 63.41 Hours Mileage: 739 miles

Dale M. Davis

Criminal Mitigation Services

P. O. Box 50944
Summerville, SC 29485
Phone: 843-871-6176
Fax: 843-875-6626
e-mail: dalemdavis@bellsouth.net

July 10, 2006

William I. Diggs, Esquire
1700 North Oak Street
Myrtle Beach, SC 29577-3574

RE: ***State v. Stephen Stanko***

STATEMENT #3

April 3, 2006 through July 10, 2006:

67.16 Hours @ $60 per hour	$ 4029.60
869 Miles @ $ .345 per mile	299.81
Expenses	18.92
Amount Due	**$ 4348.33**

Expenses:

Copies	3.05
Food	15.87
	$18.92

State v. Stephen Stanko
Time Log

Mitigation Investigator: Dale M. Davis

2006		
4/3/06	2.5 3 mi	Call to jail re dr. seeing client on weekend; call & e-mails to dr., attys re appt & marked copies from last week; Insty print to copy records for expert; Hall Insti re raw data, prep'd ltr & faxed; rtn call, no psych, incomplt records from Hall rec'd; e-mail to brother, sister; call to HS re locate witness to head injury; call to witness; call to school re grades 1-5 missing, unable to locate
4/4	3 182 mi	Jail to see client
4/5	.5	Hall records incomplete, call to Hall, prep'd ltr, faxed ltr & release for additional records; call from atty
4/6	2.5	DHEC Columbia, fam memb death cert.
4/12	.5	Call to jail, sheriff's office, e-mails, re scheduling meeting with client this week at GCSO
4/13	7.5 165	Client transported to GCSO, met with him to go through documents & materials seized after arrest
4/14	1.25	Review of notes taken at meeting, research re mental issue, memo to attys re mtg & findings – e-mailed with research attch
5/4	.66	Call to witness, e-mail from sister, reply with requested info; set up interviews for tom.
5/5	3.25 27 miles	Met w and interviewed witnesses
5/8	.8	Review & download forwarded old e-mails, etc. from relative re client & relationships; forwarded to other team members
5/10	.25	Call from investigator
5/30-31	.75	Call from atty; calls/ltr to follow up requested records; e-mail re same to atty office; call to Hall
6/14	.25	e-mail/call from investigator
6/16	.25	e-mail from atty, return e-mail re records to support
6/20	1.25	Call to client's sister; e-mails re planned mtg & any questions, return e-mails; review notes; rec'd questions from atty re meeting; e-mail to other sister re status
6/23	5.5 32 mi	Met with family members; interviews @ home of other witnesses re incident in hs & location of additional ones
6/24	1.75	e-mails w attys re recent interviews; memo re new info; memo answers to specific questions posed by atty prior to meeting
6/26	1.5	Return call from sister, old friend, e-mails, post office
6/27	1.5	Lengthy call from lawyer re status & hearing, call to investigator, former classmate; compile info for trip to G-town & MB, locate addresses; prep letters employers
6/28	4.75 28 mi	Calls to former employers, faxed ltrs w releases for records; call to Naval Hosp re follow up; call to mom re getting release for delivery & pre-natal care due to recent findings, prep'd release & went to their home, she signed. Prep'd ltrs for military records, call re proper location of Naval records, faxed mom's releases & ltr, faxed new ltr & release for client's outpt records (inpt rec'd previously); call from sister re documents & meeting to get them; e-mails, review multi discovery docs & records
6/29	4.5 15 mi	Call to P&P agent, memo re conversation; call from investigator, prep multiple subpoenas, calls re specifics, add new info to notebook, calls to jails; return call from P&P agent, memo & e-mail re conversation; went to meet sister for documents; call from Navy Hosp re military med recs located; call, prep & fax letter to psych @ Hall re old records dx; locate contact info for Newberry pathology; return call from former classmate, interviewed
6/30	11.5 267 mi	Travel, long meeting with client; Myrtle Beach & Conway to see witnesses
7/1	.33	e-mails re social wrkr, call from family
7/3	.75	Call, e-mails, response, draft; call from atty re parole docs & other issues for trial
7/10	10 153 mi	Met with atty & investigator Georgetown
		Time: 67.16 Hours Mileage: 869 miles

Dale M. Davis
Criminal Mitigation Services

P. O. Box 41634
N. Charleston, SC 29423
Phone: 843-767-1548
Fax: 843-767-1591
e-mail: dalemdavis@bellsouth.net

August 21, 2006

William I. Diggs, Esquire
1700 North Oak Street
Myrtle Beach, SC 29577-3574

RE: ***State v. Stephen Stanko***

STATEMENT – FINAL (corrected)

July 13, 2006 through August 19, 2006:

221.53 Hours @ $60 per hour	$ 13,291.80
1569 Miles @ $ .345 per mile	541.31
Expenses	1,249.98
Amount Due	**$ 15,083.09**

Expenses:

Copies	$ 11.13	
Food	115.35	[receipts attached]
Food	23.31	[forgot to get receipts – Thomas' Café - $8.83 (2 times) & Hog Heaven $5.65]
Accomodations	1087.99	
Long distance	12.20	
	$ 1249.98	

****PLEASE NOTE NEW ADDRESS

State v. Stephen Stanko

Time Log – Dale Davis, Mitigation Investigator

2006		
7/13/06	8 hours 120 miles	Travel to Hampton, meeting with atty, discussion of case stragety & to-do's left, needs for court exhibits, etc.
7/15	1.25	Rec'd mom's delivery records, reviewed, scanned to PDF & e-mailed to attys with noted sections
7/16	.2	e-mails w atty re records
7/19	5	Read new mental health records from discovery, organize, review all prior interview notes to meet with soc wkr tomorrow
7/20	10 236 mi	Travel Georgetown & Myrtle Beach, jail client not available, view case evidence with writings, meeting with attys, social wkr
7/21	1.25 22 mi	McElveen Pontiac, served subpoena, met with office mgr
7/22	1	Memo for atty documenting list of evidence viewed, e-mailed
7/23	3.5	Prep'd portion of timeline, calls to family members
7/24	1.5	Call to relative re upcoming trial, discussion of interviews by others, family etc.
7/25	2.5	Memo re call last night, call to lawyer re info, e-mail re need for supb., call from investigator
7/26	4.25	Calls to Newberry, MUSC re autopsy report, prep'd ltr & faxed; call to confirm; lengthy call with MUSC, call from investigator, e-mails, memos
7/27	3.25	Transcribe investigator's lengthy taped interview w witness
7/28	1.75	Discussion re jury selections, etc. Calls & e-mails from sister re being here for trial, discussions with attys re same; call to witnesses; call to BCSO re old 911 call
7/29	.75	Phone call & e-mails atty, investigator
7/30	.33	Add to genogram, e-mail copy to soc wkr with other docs
8/2	10.75	Jury qualifications; Goose Creek HS, serve subp & check w witnesses, home of two witnesses, serve subp, travel, e-, mails, prep info for atty, courthouse
8/3	13	Jury qualifications; Call re follow up on research, calls from subp'd witneses, jail for reocrds, court house, Georgetown SO to read through journals in evidence & copy pertinent material
8/4	12.75	Jury qualifications; work with investigator re info for timeline, research phone records, verify owner, N. Myrtle Beach to atty office to meet with witnesses re mitigation issues, work w witness on timeline & enter new info; Courtroom; mtg w atty
8/5	4.5	Lengthy contact with family member re possibility coming here; continue prep timeline for exhibit; read transcript
8/6	7.25	Memos, notebooks, read new discovery & incorp'd into other material; subpoenas; Began prep of Powerpoints for penalty phase
8/7	13	Trial; N. Myrtle Beach, Conway, Loris to subpoena & speak w witnesses for penalty phase, Courthouse, prep memos, calls to witnesses re progress & expected time to appear, continue prep of timeline, mtg w atty
8/8	10.75	Trial; Georgetown SO to separate evidence expect to use in sentencing, Courthouse, follow up subpoena, call to 911 operator re appearance, fax requested info to social worker, mtg w atty
8/9	10 682 miles to date	Trial
8/11	13	Trial, met with social worker, verdict in, contact family & witnesses; meeting w atty
8/12	8	Prep docs for penalty phase, recall witnesses re expected course of this phase, met w witness, atty & investigator, perfecting time sequence, begin prep list of subpoenaed witnesses w expected testimony, met w atty
8/13	10.75	Travel to & from Charleston to see witnesses, complete Powerpoints for each witnesses, scanned in documents for use in trial, add to timeline, prep additional subpoenas, meeting with team
8/14	13	Penalty Phase began; ready docs for court, mtg w atty & scan additional docs
8/15	15.25	Jail to interview corrections officers & subpoenaed after interview; Penalty phase continues, mtg w atty – prep'd final witness list & expected testimony
8/16	10.5	Court, witness contact, mtg w atty

8/17	12	Court
8/18	10.5	Court, verdict in, Penalty Phase completed
8/19	2 509 miles	Return to Charleston
		Time: 248.03 Hours Mileage: 1569 miles

From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Friday, March 10, 2006 9:35 AM
To: Bill Diggs; Gerald Kelly
Cc: Johana; Vicki Childs
Subject: Stanko evals

Have you all decided on another forensic psychiatrist & neuropsychologist for Stephen? When I talked to Donna Swartz-Watts' office about another case I'm working on, they told me that their office had been advised that Mr. Stanko's lawyer had decided not to use them and Dr. Brawley. I have to call Wm. S. Hall to have raw data sent to the neuropsychologist on the other case & I can have Stephen's data sent at the same time if you have the new psychologist's name.
Please respond to this right away as I need to call Hall today.
Thanks,
Dale

Dale M. Davis
Capital Mitigation Investigator
Criminal Mitigation Services

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From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Friday, March 10, 2006 9:39 AM
To: Gerald Kelly
Subject: FYI e-mail just sent to you & Diggs

I don't know if you knew anything about the cancellation of the evals or not. The appointments were scheduled before I was on this case & before any records were collected. A week before he was supposed to be evaluated, the doctors had not gotten any of the requested documents. The doctor's office called them to find out why they didn't have the documents and were told that the lawyers had decided not to use them.

Dale M. Davis
Capital Mitigation Investigator
Criminal Mitigation Services

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From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Sunday, March 26, 2006 7:28 PM
To: Bill Diggs; Gerald Kelly; Johana; Vicki Childs
Subject: Media coverage
Attachments: Trial set for August.doc; anderson cooper - Liz.doc; Arrest information - agencies.doc; Brother's death.doc; CNN transcript.doc; Columbia residents spot Stanko.doc; Crews & depression.doc; Crews says depressed.doc; Death not black & white.doc; Defense team set Georgetown.doc; Early life gave no clues.doc; Georgetown grand jury lays out Stanko charges.doc; Georgetown Times.doc; Gillespie CV.doc; Greta Van Susteren.doc; Horry Cty GJ hears case.doc; Jury Indicts.doc; Laura comments blog.doc; library website re murder.doc; Nancy Grace transcript.doc; serial killer web site.doc; Stanko once stellar student.doc; Stephen Stanko prosecution.doc; Sun News search results.doc; Target USA - Miles O'Brien.doc; Sachy - Experts debate brain data -.doc; Doctor argues Rivera.doc; Judge to rule on theory.doc; Witness contact.doc

One of these is a compilation of artilces found when I searced the Myrtle BEach paper. There was a fee to download the article so I just copied the summary & date. Others are different things located in that search.
Also, a couple of articles from the Augusta paper on Dr. Sachy and a possible witness contact list.
See you tomorrow.

Dale M. Davis
Capital Mitigation Investigator
Criminal Mitigation Services

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Experts debate brain data

Web posted Tuesday, January 20, 2004

Reinaldo Rivera has "diminished responsibility" for his crimes because a sophisticated brain scan shows he has little activity in an area responsible for impulse control and appropriate behavior, a defense expert testified.

But specialists in the field who are not involved in the case said the science doesn't support the conclusions.

In Richmond County Superior Court, neuropsychiatrist Thomas Sachy presented images Tuesday from a positron emission tomography scan, or PET scan, of Mr. Rivera's brain. It displays brain areas based on cell activity. Dr. Sachy noted little going on in the orbital frontal lobes of Mr. Rivera's brain when compared side by side with a normal brain scan he obtained from a California lab.

"Judgment, social mores, tact, impulse control, this is where that is in the brain," Dr. Sachy said. "Mr. Rivera's is quiet."

But it is not valid to compare scans from two different machines with patients performing under different circumstances, said Helen Mayberg, a former professor of neuropsychiatry at the University of Toronto who recently relocated to Emory University. She has been using PET scans to study brain circuitry and psychiatric disorders since the 1980s.

"These scans are very, very sensitive," she said, and little things can make a difference. "Showing the pictures side by side is very misleading."

Also, that area of the brain might not be the one responsible for impulse control, said Manuel Casanova, a neuropathologist and professor of psychiatry at the University of Louisville.

"First of all, trying to locate the (center) of impulse control within the brain that way really is not proper," Dr. Casanova said. "If anything, there would be several other candidates."

And activity in that area can change based on patient motivation. Schizophrenics might show little activity in that area, a condition called hypofrontality, until offered a reward for doing the test, Dr. Casanova said.

"If you were to offer those patients cigarettes or coffee, blood flow would be back to normal," Dr. Casanova said. "Many people have actually said that the hypofrontality exhibited by the patients is really a motivational or attentional deficit. It doesn't have to do with impulse control."

Yet Dr. Sachy said his findings, along with an MRI that showed Mr. Rivera's brain shrinking and interviews and exams, led him to diagnose Mr. Rivera with antisocial personality disorder, obsessive-compulsive disorder and a sadistic form of paraphilia, sexual deviancy.

"He has an obsession with violent, deviant sexual acts committed on women," Dr. Sachy said. "His compulsion is doing them."

And the dysfunctional brain interfered with his ability to control them, Dr. Sachy said.

"My clinical opinion is that without a properly functioning frontal lobe, you have diminished responsibility," Dr. Sachy said. "Given the nature of what he's done, it would be difficult to say

absolutely no responsibility."

But PET scan readings of low activity in the frontal lobe wouldn't fit with obsessive-compulsive disorder, Dr. Mayberg said.

"Obsessive-compulsive disorder has overactive frontal lobes," Dr. Mayberg said. Nor do the findings seem to fit his crimes, she said.

Dr. Sachy cited a study that showed violent criminals tend to have problems in their frontal lobes, but Dr. Mayberg said that was a flawed study and didn't seem to fit this crime. Mr. Rivera is accused of raping and killing four Augusta-area women.

"There is no data that says people who are serial, premeditated predators have abnormalities of their frontal lobe," she said.

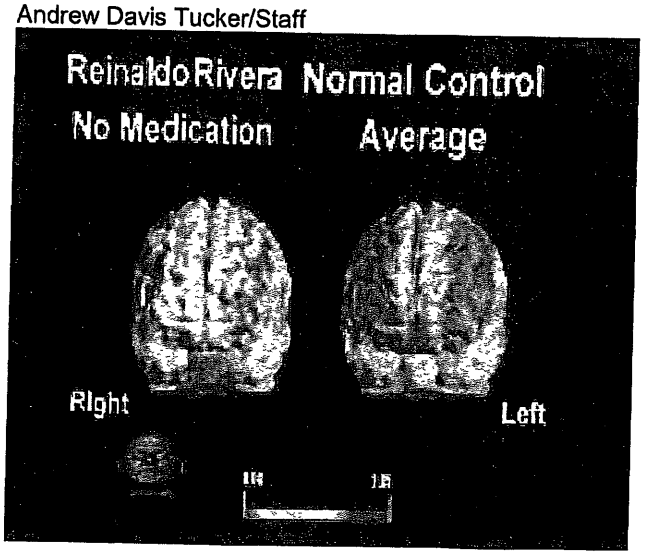
And the whole premise of the scan is mistaken, Dr. Casanova said.

"Making a correlation between blood flow and impulse control is flawed, period. Bad science," he said.

Reach Tom Corwin at (706) 823-3213 or

Click here to return to story:
http://chronicle.augusta.com/stories/012104/met_071-8105.000.shtml

A three-dimensional model of Reinaldo Rivera's brain, created from date gathered in a PET scan, was shown at the trial.
Andrew Davis Tucker/Staff



Neuropsychiatrist Thomas Sachy points to an MRI scan of Reinaldo Rivera's brain during Mr. Rivera's trial. Dr. Sachy argues that Mr. Rivera is mentally ill because of a lack of activity in the defendant's orbital frontal lobes.

Doctor argues Rivera's health

Web posted Monday, January 19, 2004

Jurors are expected to hear a doctor testify today it was a brain abnormality that turned Reinaldo Rivera into a violent psychopath, who investigators say raped and killed four women.

Mr. Rivera, 40, is beginning his third week of trial in Richmond County Superior Court where his attorneys, Peter Johnson and Jacque Hawk, have conceded Mr. Rivera's guilt but seek a verdict of guilty but mentally ill.

Prosecutors seek an unqualified guilty verdict, and a death sentence if Mr. Rivera is convicted of murder in the September 2000 strangulation death of Army Sgt. Marni Glista. Investigators in the Augusta area say she was the last of four woman Mr. Rivera raped and killed, although they also contend he attacked and tried to kill a fifth.

"It's my opinion Mr. Rivera is a psychopath,' Dr. Thomas Sachy, a neuropsychiatrist now in private practice, testified Monday while the jury was absent.

Many doctors have testified in Georgia courts that defendants are psychopathic - devoid of morals, social values or empathy - but Dr. Sachy will be the first to give the expert opinion that the cause of psychopathic personality is the decreased activity in the brain's frontal lobes, a condition known as hypofrontality, normally caused by disease or injury.

"There's always a first time," Judge Albert M. Pickett responded Monday when District Attorney Danny Craig argued the theory is inadmissible because no Georgia court has accepted such testimony.

With a computer-generated graphic showing a three-dimension view of PET scan results, Dr. Sachy showed what Mr. Rivera's brain activity looked like compared with a "normal" brain.

While the latter showed what Dr. Sachy testified was high brain activity in the frontal lobes, Mr. Rivera's lacked the red color representing thought activity.

"He's almost cold up here," Dr. Sachy testified. "This is where morality is, humanity is," he said of the frontal lobe area.

Dr. Sachy also used the results of a MRI scan of Mr. Rivera's head to point to areas of brain-cell death that he believes is indicative of mental illness.

Either or even both brain conditions wouldn't render a person unable to function in society, Dr. Sachy testified. Indeed, psychopaths are able to hold down jobs, appear normal to others and even pass psychological testing, Dr. Sachy testified.

"(But) it's a mask of sanity," Dr. Sachy testified.

On rebuttal today or Wednesday, prosecutors will present Dr. David Hess, the chairman of the Medical College of Georgia's neurology department, who also examined Mr. Rivera but found no neurological abnormalities.

Dr. Hess testified Monday that the medical community does accept the connection between violent behavior and hypofrontality, but that it's a chicken-and-egg situation.

"We don't know which comes first. We just know there's an association," Dr. Hess testified.

At the conclusion of Monday's hearing, Judge Pickett ruled Dr. Sachy will be allowed to testify and it will be up to the jury to determine how much weight or credibility to give to any expert testimony.

When asked by the judge whether Mr. Rivera would also testify as a defense witness, his attorneys said Monday evening that the decision has not been made. They intend to confer with Dr. Sachy and a psychologist who examined Mr. Rivera today.

Even if the jury finds Mr. Rivera guilty but mentally ill, he will still face a second phase of trial during which the jury will hear additional evidence and decide punishment on the murder count - life in prison with or without the possibility of parole, or death.

Regardless of this verdict, Mr. Craig has said he will probably still try Mr. Rivera in Columbia County, where he is charged with murder in the death of [redacted] a 17-year-old who disappeared less than three months before Sgt. Glista, 21, was killed.

In Aiken County, Mr. Rivera is charged with murder and other charges in the rape-killings of [redacted] both 17 when they disappeared in July and December of 1999.

As in [redacted] case, Mr. Rivera's directions lead authorities to [redacted] remains. Mrs. Wilson's body was found by hunters almost three weeks after she vanished shortly after having her infant daughter's picture taken with Santa.

Reach Sandy Hodson at (706) 823-3226 or sandy.hodson@augustachronicle.com.

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Neuropsychiatrist Dr. Thomas Sachy discusses the human brain's frontal lobe in Reinaldo Rivera's trial.
Andrew Davis Tucker/Staff

Neuropsychiatrist Dr. Thomas Sachy of Georgia Pain and Behavorial Medicine gives his testimony in the death penalty case of defendant Reinaldo Rivera in Richmond County Superior Court at the Municipal Building on Tuesday, January 20, 2004.

Judge to rule on theory's viability

Before jurors return today to hear more evidence in Reinaldo Rivera's trial, a judge will determine whether they will hear a psychologist's theory that sexual addiction drove Mr. Rivera to rape and kill women.

After that testimony - if Judge Albert M. Pickett rules it is relevant to the issue of mental illness - jurors might hear from Mr. Rivera himself.

"I think he would like to be understood," attorney Peter Johnson said of his client. But neither Mr. Johnson nor co-counsel Jacque Hawk would say Tuesday whether Mr. Rivera will testify.

Jurors heard Tuesday from neuropsychiatrist Dr. Thomas Sachy, who said he believes Mr. Rivera is mentally ill and that medical tests prove a brain abnormality diminishes his responsibility in the alleged rapes of five women and the deaths of four of them.

This month in Richmond County Superior Court, Mr. Rivera is facing the first of four possible death penalty trials. Although he has pleaded innocent in Richmond County to 14 charges, including murder in the strangulation death of Army Sgt. Marni Glista, Mr. Rivera's attorneys have conceded his guilt. They want jurors to return a verdict of guilty but mentally ill.

Dr. Sachy testified he believes Mr. Rivera is mentally ill. On cross-

From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Tuesday, December 19, 2006 4:09 PM
To: Bill Diggs; Gerald Kelly; Vicki Childs
Subject: psychopathy

I thought you all might be interested in this article since it relates to Stephen's defense. Hope all of you have happy holidays & that Santa is good to you.

This paragraph is from the article below regarding psychopaths:

These findings have not only sparked debate among researchers but also attracted widespread interest among lawyers and judges. Courts in the United States and other countries increasingly rely on psychopathy measures to make sentencing judgments.
New studies suggest that being labeled a psychopath increases the likelihood that an offender will be locked up indefinitely or even executed.

Science News Online

Week of Dec. 9, 2006; Vol. 170, No. 24

The Predator's Gaze

Scientists explore the frightening world of psychopaths

Bruce Bower

Derry Mainwaring-Knight holds a special place in the annals of con artistry. Fresh out of an English prison in 1984 after serving time for a rape conviction, Mainwaring-Knight convinced a church rector to enlist in his battle against the spread of devil worshippers. The articulate, ingratiating ex-convict offered to start an organization that would purchase and destroy artifacts linked to satanism and black magic.

[IMAGE] New studies are delving into the nature and roots of psychopathy. This personality disorder characterizes a substantial minority of criminal offenders, including serial killers such as Ted Bundy. This photo was taken in a Florida courtroom in 1979, during his trial for the murder of two women.
Corbis

Within a few months, the dazzled rector had emptied his own pockets and obtained money for Mainwaring-Knight's campaign from many devout church members, including prominent politicians and businesspeople. Mainwaring-Knight collected nearly $400,000 as well as a Rolls-Royce

automobile. He spent the money on himself and his girlfriends.

In 1986, the satanic bubble burst. Mainwaring-Knight was hauled into court on 19 counts of fraud. Denying any wrongdoing, he argued that he had no need to trick people out of their money since he made a great living running a prostitution ring. After his conviction, his mother revealed that he had also duped her out of a large sum of cash.

Mainwaring-Knight wasn't just a con man. By all accounts, he had a psychopathic personality. Psychopaths lack a conscience and are incapable of experiencing empathy, guilt, or loyalty. Descriptions of psychopaths callously manipulating, intimidating, or harming others go back hundreds of years.

Psychiatrist Hervey Cleckley wrote The Mask of Sanity (1941, Mosby), a classic textbook on psychopathy. Cleckley portrayed psychopaths as superficially charming, intelligent people who don't feel deep emotions and lie about almost everything because they neither understand nor care about others.

Two conditions—sociopathy and antisocial personality disorder—often get confused with psychopathy. Sociopathy refers to criminal attitudes and behaviors viewed as normal in certain groups, such as street gangs. Sociopaths have a sense of right and wrong that is based on the values of their criminal group.

Antisocial personality disorder, an official psychiatric ailment, is a diagnosis applied to people who commit a broad range of aggressive and criminal acts. Some qualify as psychopaths, but many don't.

Although psychiatrists don't currently label psychopathy as a formal personality disorder, a wave of new research has yielded insights into how psychopaths think and suggested biological and temperamental roots of this condition.

These findings have not only sparked debate among researchers but also attracted widespread interest among lawyers and judges. Courts in the United States and other countries increasingly rely on psychopathy measures to make sentencing judgments. New studies suggest that being labeled a psychopath increases the likelihood that an offender will be locked up indefinitely or even executed.

The jury is still out on the psychopathy's usefulness in law. But the condition deserves intense scientific scrutiny, says psychologist Joseph P. Newman of the University of Wisconsin&@150;Madison. Much new research appears in The Psychopath: Theory, Research, and Practice (2007, H. Hervé and J. Yuille, eds., Lawrence Erlbaum).

"Psychopathy rivals any mental disorder in its negative consequences for the person who has it," Newman contends.

Stone-cold killers

In 2002, psychologist Stephen Porter of Dalhousie University in Halifax, Nova Scotia, interviewed 125 men who were serving time in two Canadian prisons for murder. The 34 men with high scores on a psychopathy test gave him a surprise. Despite many investigators' assumption that psychopathic criminals lack self-control and often act impulsively, most of the psychopathic Canadian killers had planned the ruthless, cold-blooded murders that they had committed.

One psychopathic offender murdered his ex-girlfriend to stop her from interfering with his new relationship. Another psychopathic inmate arranged and committed the murder of his wife to cash in her life insurance policy.

In contrast, a large majority of the nonpsychopathic prisoners had killed someone in the heat of the moment or upon reaching an emotional breaking point.

Porter measured psychopathy using a tool called the Psychopathy Checklist-Revised (PCL-R). This clinical-rating scale, devised by psychologist Robert D. Hare of the University of British Columbia in Vancouver, has served as the gold standard of psychopathy tests for about 20 years.

In this approach, a psychologist or psychiatrist interviews a person and reviews his or her criminal record. The rater then judges whether any of 20 psychopathy-related traits applies to that person. These traits include being superficial, acting grandiosely, lying frequently, showing no remorse, lacking empathy, refusing to accept responsibility for misdeeds, behaving impulsively, and having committed many crimes.

PCL-R scores range from 0 to 40. Most people in the general population score no more than 5 on this test. Hare estimates that 1 percent scores at least 30. Researchers typically use scores of 30 and above to indicate psychopathy, as Porter did.

The average PCL-R scores for men and women in prisons are 22 and 19, respectively. About 15 percent of male offenders and 10 percent of female offenders score 30 or more.

Among psychopaths who kill, a thrill-seeking temperament and sadistic interests form a toxic brew, Porter says. Famous sexual murderers such as Ted Bundy and Albert DeSalvo, who was known as the Boston

Strangler, targeted a wide array of victims to fend off boredom, he says.

Psychopaths plan murders with special care because the stakes are so high, Porter argues. Even their impulsive, nonhomicidal offenses, such as robberies and assaults, reflect not an inability to control behavior so much as a lack of interest in controlling it, he suggests.

In interviews with 50 additional men imprisoned for murder, Porter found that psychopaths not only committed the bulk of premeditated homicides but also tried to explain them away as being provoked by others. The men often failed to mention incriminating details contained in police records.

Psychopathic murderers contacted by Porter preferred "hands-on" weapons, such as knives, rather than guns, and they often applied torture, mutilation, or other forms of extreme violence to their victims.

Not all psychopaths resort to violence, however. Highly intelligent people with psychopathic personalities find fertile, nonviolent opportunities in conning and manipulating others, in Porter's view.

There's currently a bull market in corporate psychopaths, according to psychologist Paul Babiak of HRBackOffice, an industrial-consulting firm in Hopewell Junction, N.Y. Organizations undergoing major changes, such as downsizing or mergers, provide a chaotic atmosphere that savvy psychopaths exploit, Babiak holds. They cozy up to a firm's power brokers, manipulate coworkers, and intimidate underlings on their way up the corporate ladder, stealing everything possible along the way.

In today's rapidly changing business world, "increased corporate rewards for risk taking and nonconformity can offer the psychopath faster career movement than before," Babiak says.

No fear

While looming as public threats, psychopaths also stand as scientific mysteries.

[IMAGE] NABBED. "Boston Strangler" Albert DeSalvo, shown just after his capture on Feb. 25, 1967, displayed cardinal signs of psychopathy: callous manipulation of others, a need for thrills, and a lack of guilt and empathy.
Associated Press

Evolutionary psychologists regard psychopathy as an inherited

personality style that has evolved because glib, deceitful individuals—as a minority within a larger population of trusting folk—often reproduce with much success.

Other investigators, such as neuroscientist R.J.R. Blair of the National Institute of Mental Health (NIMH) in Bethesda, Md., regard psychopathy as the result of a still-unspecified genetic disorder. The inherited defect interferes with the workings of the brain's emotion system, which is centered in the amygdala, a structure especially concerned with perceiving dangerous situations.

People with psychopathy don't modify behaviors for which they're punished and don't learn to avoid actions that harm others, Blair proposes in the September Cognition. As a result, they fail to develop a moral sense, in his view.

Blair's theory fits with previous observations that psychopaths have difficulty learning to avoid punishments, show weak physiological responses to threats, and don't often recognize sadness or fear in others.

Newman takes a different approach. He views psychopathic personalities as the product of an attention deficit. Psychopaths focus well on their explicit goals but ignore incidental information that provides perspective and guides behavior, Newman holds. Most other people, as they take action, unconsciously consult such information, for instance, rules of conduct in social settings and nonverbal signs of discomfort in those around them.

Furthermore, because psychopaths ignore peripheral information that provides context and meaning to daily situations, Newman argues, they don't appreciate music, art, or other endeavors that require depth of feeling.

In one set of studies that Newman directed, psychopathic and nonpsychopathic prisoners viewed a series of mislabeled images, such as a drawing of a pig along with the word dog. Nonpsychopathic participants found these images confusing, taking considerable time to name the objects and read the labels. Psychopathic volunteers completed these tasks much more quickly and barely noticed the discrepancies between images and labels.

Newman suspects that this narrowing of attention in psychopaths jams their mental radar for discerning other people's emotional reactions. In a study slated to appear in Psychological Science, he and his coworkers report examining people who had either a low or a high level of anxiety but weren't psychopaths. Study participants who exhibited an almost anxietyfree personality, which is one

characteristic of psychopaths, showed no startle response—as measured by pronounced eye-blinks—to sudden noises that clearly surprised high-anxiety volunteers. In other words, the Wisconsin psychologist concludes, psychopaths and others who rarely or never feel anxious simply don't notice disturbing events or potential dangers in their surroundings and thus don't stop to consider them.

Unburdened by anxiety, "psychopaths respond to whims," Newman says. "This condition gets superimposed on a person's other characteristics, so a psychopath who is predisposed to violence will be violent on a whim."

Callous kids

Psychologist Paul J. Frick of the University of New Orleans recalls a boy who was recently referred to the mental health clinic where Frick works. The 10-year-old had trapped a cat and killed it by slowly slicing it with a knife. The youngster calmly explained to Frick that he wanted to see how much he could cut the animal before it died.

"He wasn't upset by the incident at all," Frick says. "He was a bit annoyed about being brought to me, though."

The boy might be a future surgeon, but it's more likely that he's headed for psychopathic pursuits, in Frick's view. The child's callousness and lack of emotion, seen in a small proportion of children and teenagers, probably foreshadow serious behavior problems, and perhaps even a psychopathic personality, in adulthood.

In such children, Frick finds a lack of guilt, an unemotional demeanor, little concern about others' feelings or about school, a refusal to keep promises, and difficulty forming lasting friendships.

Although about 1 in 100 kids displays such traits, nobody knows how many of them will grow up to become psychopaths. In a 2003 study, Frick's team tracked 98 children who began the study in grades 3, 4, 6, or 7. Children initially identified by their parents as callous and unemotional tended to continue to be regarded that way over the 4 years of observation.

Only a few children who started out as extremely callous and unfeeling became less so during the study. Environmental factors, such as high-quality parenting and living in a wealthy family, appeared to stimulate such improvement, Frick says.

A 2005 study of 3,682 identical and fraternal twin pairs at age 7, coauthored by the NIMH's Blair, identified a strong genetic contribution to callous, unemotional personality. Frick suspects that

children who fit this description are born with a dispassionate temperament and tend not to notice or react to others' distress or to signs of danger.

"Having this temperament makes it difficult, but not impossible, to develop empathy and guilt," Frick proposes.

He and his coworkers find that for children as young as age 3 who display callousness and lack of emotion, parents and teachers report frequent fights and other serious behavior problems.

Researchers have had little success in devising effective treatment programs for kids who seem to be on the road to psychopathy. However, psychologists David J. Hawes and Mark R. Dadds, both of the University of New South Wales in Sydney, Australia, last year described one promising approach. Parents of 56 boys, ages 4 to 9, referred to a clinic for behavior problems received a 10-week training course. Hawes and Dadds found that the more callous and unemotional a boy was, the more likely he was to respond well to rewards and encouragement from parents for good behavior, but not to punishments for misbehavior.

Courting trouble

Psychologist John F. Edens of Southern Methodist University in Dallas has watched with concern over the past decade as many of his colleagues have testified in court with what he calls "overly zealous and empirically questionable conclusions" about psychopathy.

Because psychopaths are presumed to be irredeemably dangerous and untreatable, courts increasingly lean on psychological assessments to guide decisions about whether to confine offenders for indeterminate periods or even to execute them.

In the February Professional Psychology: Research and Practice, Edens outlined the limitations of current knowledge about psychopathy.

Consider that psychologists working for the prosecution and the defense in criminal cases often generate disparate psychopathy scores for the same defendants, Edens says. To make matters more confusing, the incriminating score of 30 or more on the PCL-R hasn't been rigorously linked to psychopathy.

Edens recommends that courtroom psychologists report a confidence range for each psychopathy score assigned to a defendant. Scores of individuals given the test under different conditions typically span 14 points, he says.

Moreover, although a high psychopathy score offers the strongest single indication of whether a prisoner will be violent in the near future, it doesn't doom an offender to a life of mayhem, Edens holds. For example, an inmate scoring above 30 on the PCL-R may resort to violence in the weeks after release from prison, he notes, but that score doesn't imply that he will be violent for decades and therefore requires indefinite imprisonment.

It might be best to stop using the term psychopath in court, Edens asserts, because the word carries a stigma that unduly sways juries. In studies with college students, he finds that they associate word psychopath with especially brutal, infamous murderers. In simulated court cases, participants acting as jurors assigned the death penalty to two-thirds of murderers portrayed in expert testimony as psychopaths, as opposed to roughly one-third of murderers described as either psychotic or free of mental disorders.

"Evil and psychopathy are overlapping ideas," Edens says. "Many people do evil things without being psychopathic."

Others, such as Derry Mainwaring-Knight, revel in psychopathy, doing evil by claiming to fight evil.

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Further Readings:

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Sources:

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Dale M. Davis
Capital Mitigation Investigator

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From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Friday, April 14, 2006 10:49 AM
To: Geoff McKee; Bill Diggs; Vicki Childs; Johana
Subject: see attached memo re Stephen
Attachments: missing items & hypergraphia.doc

Dale M. Davis
Capital Mitigation Investigator

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MEMO

TO: Attorneys

FROM: Dale Davis

RE: Missing items; Hypergraphia

DATE: 4-16-06

After spending a lot of time with Stephen, I believe he has some obsessive-compulsive traits. In that line of thinking, after going through the volumes of paper at the Sheriff's office as well as the lengthy letters/documents he has written for this case, I began to think that he may have a disorder called hypergraphia where people feel compelled to write down everything, they write, write, write. I did some research on this and, while I was over there yesterday, ask him about the extent of his writing. I asked why he wrote so much, journaled things to such detail. He said that he needed to do that to get relief from it being in his mind. He could put order to things sometimes & even relieve anger if he wrote down his thoughts. I asked if he felt it was a compulsion & he said he did. I asked if he could "not do it", "stop writing so much" and he said he could not, he needed to write.

Hypergrapia is associated with temporal lobe epilepsy. (see attached minimal info on it) I have never had a case with this disorder so don't know much about it but it is something that the doctors seeing Stephen should be aware of.

We had a productive time yesterday and got through all of the items. He said that there are several things missing. All of his journals are missing. They began in February 1996 and go to sometime near the time of his arrest. He said some of them have newspaper articles or cards/notes taped to pages & he comments on the significance of item. He said in the beginning at Berkeley Jail he even logged his meals into the journal. He said that he began to journal at the time of his arrest in 1996. These are very important to us as they should document the course of his and Laura's relationship.

Missing items:

(1) There are seven (7) Mead Subject Wireless Notebooks each with 100 to 150 pages. These pages are covered back and front with his notes.
(2) Red bound appellate legal papers (This is the second volume to a blue bound one that is in the boxes.)
(3) A manila envelope with his psychiatric evaluations & other related materials from Dr. Montgomery at the State Hospital. He said there are results from an MMPI with the graph. He described the graph that accompanies that test to me.

(Note: I noticed something that I should have caught sooner when I was preparing the records to send to Dr. Deysach. I called about getting the raw data from Hall sent to Dr. Deysach and realized that the only thing Hall had sent to you (Bill) was the social history. There are other records including a competency eval & Stephen said he had an MMPI & psychology while there. I sent another request with release to Ms. Suber asking for everything *except* the social history so we should get the rest of the records fairly soon.)

From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Friday, April 14, 2006 4:05 PM
To: Bill Diggs; Gerald Kelly
Subject: I forgot to attach the docs about hypergraphia
Attachments: hypergraphy & temp lobe epilepsy.doc; hypergraphia.doc

Dale M. Davis
Capital Mitigation Investigator

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Definition of Hypergraphia

Hypergraphia: The driving compulsion to write; the overwhelming urge to write. Hypergraphia may compel someone to keep a voluminous journal, to jot off frequent letters to the editor, to write on toilet paper if nothing else is available, and perhaps even to compile a dictionary. Hypergraphia is the opposite of writer's block.

Temporal lobe epilepsy is associated with hypergraphia. This association has been known at least as early as 1974 (Waxman SG, Geschwind N. Hypergraphia in temporal lobe epilepsy. Neurology. 1974;24:629-36). A number of prolific writer may have had temporal lobe epilepsy, including Byron, Dante, Dostoevsky, Molière, Petrarch, Poe, and Tennyson.

Hypergraphia has also been called the midnight disease.

What is hypergraphia?

For those who have never had first-hand experience, it may be hard to imagine a condition where a person is driven into a creative frenzy, being propelled by an unknown force to scribble away furiously on whatever is available - notebooks, toilet paper, walls, skin. But that is just exactly what hypergraphia is - the uncontrollable need to write.

What causes hypergraphia?

Several different regions of the brain govern the act of writing. The ability to write is conferred in part by the cerebral cortex which comprises the outer layer of the brain. The drive to write is controlled by the limbic system, a ring-shaped cluster of cells deeply buried in the cortex which governs emotion, affiliated instincts and inspiration and is said to regulate the human being's need for communication. The understanding of words and the source of ideas comes from the temporal lobes behind the ears, which are connected to the limbic system via nerve fibres. The organising and editing of ideas is controlled by the frontal lobe behind the forehead.

Hypergraphia is triggered by changes in brainwave activity in the temporal lobe. It's akin to the limbic system which governs the human need for contact, kicking the speech area of the temporal lobe into overdrive. The leading cause seems to be lesions on the temporal lobe which causes temporal lobe epilepsy[2] (TLE). Like other forms of epilepsy, TLE[3] is the neural equivalent of a lightning storm: a frenzied firing of neurons in the brain, characterised by repetitive, automatic movements. Unlike most forms of epilepsy however, it causes only impairment - not complete cessation - of consciousness and involves only parts of the brain and body; this is described in medical terms as a complex partial seizure disorder.

In a study carried out by a Japanese research team led by T Okamura, it was found the number of Washington Psychosocial Seizure Inventory (WPSI) items indicating emotional maladjustment and CT scan anomalies were significantly higher in patients with epilepsy and hypergraphia than in patients who suffered from non-hypergraphia epilepsy. It was concluded that hypergraphia reflected changes in emotional responsiveness secondary to organic temporal lobe lesions. Another study carried out by HS Sachdev revealed that TLE patients who were presented with a standard questionnaire tended to reply more frequently and were inclined to write extensively (average: 1301 words) as compared to those who did not suffer from TLE (average: 106 words). Furthermore, of the patients who exhibited

hypergraphia, a total of 73% were sufferers of TLE, suggesting that hypergraphia and TLE were closely related. A variation of this condition was also reported in conjunction with lesions in the right brain hemisphere which seemed to cause patients, when subtly prompted, to produce linguistically correct but semantically loose writing.

Aside from temporal lobe lesions, other major causes of hypergraphia include manic depression (which shares several personality characteristics with TLE - among them, alteration of temporal lobe activity during manic episodes), bipolar disorder, schizophrenia and frontotemporal dementia. Also, people with Asperger's Syndrome have reported experiencing hypergraphia, suggesting that the two conditions may also be linked.

What is the frequency of hypergraphia?

The frequency of hypergraphia on its own has not been established, but its frequency in conjunction with temporal lobe epilepsy may be estimated from TLE statistics. It is believed that TLE affects between 600,000 and a million Americans, although if properly diagnosed the rate might be as high as one in a hundred adults, which would make it a common affliction. It is estimated that 73% of the hypergraphic population are sufferers of TLE. There is, however, not enough demographic data to determine if these numbers are uniform throughout the world.

From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Wednesday, June 28, 2006 4:09 PM
To: Bill Diggs
Cc: Gerald Kelly
Subject: discussion with Gerald

Bill,
I spoke to Gerald yesterday and we discussed a couple of things that I wanted to mention to you. One is the need to get a social worker on this so that we have an expert to testify about his background, his accomplishments in school, home life, etc. We can have a couple of teachers & a friend or two but the social worker can talk to the people I have talked to and relate all of that. I mentioned the social worker in an e-mail a few days ago as I thought you may already have someone lined up, but after talking to Gerald, he was not aware of a social worker on the case. He agrees that we should get a social worker. Another thing we discussed was a prison adaptation expert and the need to have someone review his records and say he was adaptable and controllable in a prison setting. The only person that I (defense team) have used in the other cases I have done is James Aiken (CV attached). I do not think he will be available on such short notice but I can contact him if you like. I would like for us to get together in the next couple of weeks to discuss who we want to use at sentencing, how we want to present background witnesses, subpoenas needed, etc.

On another subject, when I talked to Stephen's mother last week, I mentioned that sometimes things can happen in utero or during delivery that the mom is not aware of. Since there is no way to be certain what caused his brain damage, it could possibly be something that happened during that time. Based on his birth records, he had a few tough days soon after birth with jaundice from sky-high rates of bilirubin and continuous vomiting. (Records noted mom had chronic gall bladder trouble during the pregnancy; she had surgery when he was 9 weeks old.) I told her that at one point, the records noted that if his vomiting continued to later in the day, they were going to do x-rays to look for cerebral edema or intracranial hemorrhage or abdominal pathology. She seemed not to have recognized (or maybe she had just forgotten) how sick he was right after birth.

I told her all of that for a reason – I called back today and asked if she would sign a release so that I could get her pre-natal care & delivery records. She agreed immediately so I prepared a release, went to their house and she signed it. I faxed the request to the military records center today & asked if it was possible to pay a fee to expedite the process.

Let me know what you think about the social worker & prison adaptation experts. Hope to see you soon so I can hear about all of the scans/results and see the actual pictures of his brain.
Thanks,
Dale

Dale M. Davis
Capital Mitigation Investigator

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From: William Diggs <william.diggs@myrtlebeachlaw.com>
Sent: Friday, June 30, 2006 12:05 PM
To: geraldkelly@islc.net
Cc: dalemdavis@bellsouth.net; BIGBLAZE@aol.com
Subject: Stanko Social Worker

I am meeting with Evelyn Califf tomorrow at 12:00 p.m. at my office. Evelyn has agreed to do this for us. I will put her in touch with Dale to go forward. Thanks to everyone Bill

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From: William Diggs <william.diggs@myrtlebeachlaw.com>
Sent: Saturday, July 1, 2006 1:06 PM
To: dalemdavis@bellsouth.net
Subject: Dr. Califf

Dr. Evelyn Califf will be calling you about Stephen and I want you to tell her what you have uncovered about his past etc. Her email is eviepro@aol.com. Telephone 843-448-5804. Let me know if you have any questions. Thanks Bill

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From: Gerald Kelly <geraldkelly@islc.net>
Sent: Friday, July 14, 2006 8:06 AM
To: William Diggs
Cc: Childs, Vicki D.; Davis, Dale
Subject: Social worker expert needed/overview
Attachments: _AVG certification_.txt

VDC, DMD, and I met yesterday in my office in Hampton from 9:00am until 1:45pm. We will meet Inv. Steve Brown at GTSO at 11:30am next Th, 0720.

I am told that the state's evidence for GTC is down to one (1) box so we should be able to meet at your office at 2:00pm.

VDC and DMD will attempt to interview Connie Price on Monday/Tuesday.

Do you have a social worker retained or an expert who can perform the same function as a social worker, i.e., to examine the history of cl and testify to that history at time or trial?

It is necessary to have this person to testify to cl's history with our DMH, that he 1st sought assistance November 1993 and that he sought assistance previous to April 8, 2005.

To testify to his school records, family history, work history, prison history, including his missclassification as a sexual preditor and the problems it caused including his proposed move to NC upon release.

On the fact side this is the missing link at this time.

CP furnishes an inside look at cl's mental disturbance--the fact side of it--only a psychiatrist or similar expert can tell us viewing both the social history and the CP account the catagories.

This social worker if on board needs to be in on the Th 20th meeting. If not on board, should be retained between now and then and privy to meeting. If not on board, DMD has candidate. Urge this be secured and placed in line.

At this point the fact side is this:

A mentally/emotionally disturbed citizen is released from prison on parole. He as previously sought help for his dishonesty, particularly lying and misrepresenting himself, his accomplishments and abilities. He has suffered from failed relationships and has been disowned/orphaned by his family. He has a history of stealing when stressed by debt.

His school records show he was a student of promise. He scored well on the standard tests administered in the public schools and his grades were in-line with his test results. He was struck in the cranium as a student and he suffered the loss of a brother.

In prison, he is a teacher, clerk, horticulturist and has almost no infractions.

When he is released on parole, he cannot secure a job readily. He continues on parole an activity of representing inmates on various civil actions. He "sits" with an elderly woman in exchange for lodging and in October 2004 he meets LL at the SL.

LL has recently separated from Tom Walters with whom she lived before and after she divorced from her husband. LL and cl begin to date and eventually move in together.

Cl's mental and emotional disturbance is manifest in his representation of himself initially as an attorney and then is modified to a paralegal or person who works for attorneys or has access to attorneys and does legal work. He represents himself as a practical go-to-guy for persons who are foundering without and attorney. LL aids him by introducing him to persons seeking legal assistance. She introduces him to Henry Turner, Ida Brooks, and Connie Price.

Cl's behavior with each of these persons exhibits his mental/emotional disturbance. With each cl promises what he does not deliver, he claims accomplished that wh is not attempted, and he fabricates documents to support his misrepresentations.

CP says of him that his behavior became more and more extravagant, more and more bizarre, chaotic, dramatic. On March 24, 2005, she calls Clerk Donna Williams to report this behavior and an elaborate, accompaning fraud and is referred to Solicitor Heather Tollar. This is 14 days before April 8.

CP's complaint is of odd, disturbed and disturbing behavior wh is accompanied by an apparent fraudulent obtaining of property.

CP's complaint is referred to investigators of both HC and GTC. Apparently neither investigator "ran" the name of Steven C. Stanko since neither reported that the person complianted of was on parole for the same type of crimes and also violent crimes, one "very serious" and the other "serious". Kidnaping and ABHAN.

CP then met with Solicitor Meacham. He seems to have no idea that the person complained of is worthy of investigation or arrest.

Sometime in the timeframe, cl has sought medical assistance as well.

If the complaint of CP is processed in a standard, competent manner, cl will be arrested and before April 8.

The fact side shows all of this and alcohol comsumption on April 8 and LL in an angry mood as well on April 8.
But a social worker type expert is needed and CP and the chain of witness must be produced.
I consider this proof beneficial to cl's defense, but it is your call on whether the social worker is retained and how used. Please resolve this issue.

From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Friday, July 14, 2006 8:37 AM
To: Gerald Kelly; William Diggs
Cc: Childs, Vicki D.
Subject: Re: Social worker expert needed/overview

I was given the name of Dr. Evelyn Califf as the social worker but have not been contacted by her yet. I believe Bill was meeting with her in late June. Bill, did this work out?

Dale M. Davis
Capital Mitigation Investigator

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---- Original Message ----
From: Gerald Kelly
To: William Diggs
Cc: Childs, Vicki D. ; Davis, Dale
Sent: Friday, July 14, 2006 8:06 AM
Subject: Social worker expert needed/overview

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LL has recently separated from Tom Walters with whom she lived before and after she divorced from her husband. LL and cl begin to date and eventually move in together.

Cl's mental and emotional disturbance is manifest in his representation of himself initially as an attorney and then is modified to a paralegal or person who works for attorneys or has access to attorneys and does legal work. He represents himself as a practical go-to-guy for persons who are foundering without and attorney. LL aids him by introducing him to persons seeking legal assistance. She introduces him to Henry Turner, Ida Brooks, and Connie Price.

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From: Gerald Kelly <geraldkelly@islc.net>
Sent: Friday, July 21, 2006 3:14 PM
To: eviepro@aol.com
Cc: William Diggs; Davis, Dale
Subject: your history of SCS
Attachments: _AVG certification_.txt

We are looking to you to present to the jury the history of SCS. I want to jury to know when he 1st asked DMH for help and for what. His history in prison both for behavior and for occupations. His work and school history.
DMD will be invaluable to you. She has been on the case and has collected information w/wh you must be familiar.
Please work closely with Dale. You have little time to prepare and you need her help.
I will be in GT on Monday and can meet with you.

From: Gerald Kelly <geraldkelly@islc.net>
Sent: Tuesday, July 25, 2006 4:57 PM
To: William Diggs
Cc: Davis, Dale; Childs, Vicki D.
Subject: Dr. Califf
Attachments: _AVG certification_.txt

Bill,

What will be Dr. Califf's role in this trial? What are you expecting her to do?

At his point I am preparing a proof to demonstrate that Connie Price raised the alarm against client and that had those notified acted to investigate the claim LL and CL would have likely been unharmed today.

I have encourged DMD to work with and help Dr. Califf, but as of today I know of no progress by Dr. Califf. I mention this to you because Dr. Califf and cl's history is in your column of obligations, aren't she?

DMD tells me that in her opinion cl's sister living in California is necessary in mitigation. Are you going to request an order for travel and lodging expenses for the sister? Do you consider the sister necessary in mitigation?

From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Sunday, June 28, 2009 9:58 PM
To: William Diggs
Subject: Re: Stanko

Sorry, but I am not taking on anymore cases. I'm retiring when I complete the two I have left.

Dale M. Davis
Capital Mitigation Investigator

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---- Original Message ----
From: William Diggs
To: dalemdavis@bellsouth.net
Sent: Sunday, June 28, 2009 11:50 AM
Subject: Stanko

Dale
Can you prepare your presentation of mitigating evidence for the second trial. It is scheduled for November, 2009

Bill

LAW OFFICES OF WILLIAM ISAAC DIGGS
1700 Oak Street, Suite D
Myrtle Beach, SC 25977

Telephone: 843-626-4243
Facsimile: 843-626-5123

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Version: 8.5.375 / Virus Database: 270.12.93/2205 - Release Date: 06/27/09 05:53:00

From: Dale Davis <dalemdavis@bellsouth.net>
Sent: Sunday, June 28, 2009 9:57 PM
To: BIGBLAZE@aol.com
Subject: Re: Stanko

me too but now a chance in hell for me.

Dale M. Davis
Capital Mitigation Investigator

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---- Original Message ----
From: BIGBLAZE@aol.com
To: dalemdavis@bellsouth.net
Sent: Sunday, June 28, 2009 2:10 PM
Subject: Fwd: Stanko

hey, look what I got today. Surprise!

Vicki D. Childs, MS
Blazer Investigative
P.O. Box 21297
Charleston, SC 29413-1297
843-971-0088
Fax: 843-971-0302
www.blazerinvestigative.com

From: william.diggs@myrtlebeachlaw.com
To: BIGBLAZE@aol.com
Sent: 6/28/2009 11:47:43 A.M. Eastern Daylight Time
Subj: Stanko

Vicki
Are you available to asist us in the 2nd Stanko trial? Forward a cell phone number where I can reach you.

Bill Diggs
LAW OFFICES OF WILLIAM ISAAC DIGGS
1700 Oak Street, Suite D
Myrtle Beach, SC 25977

Telephone: 843-626-4243
Facsimile 843-626-5123

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INVOICE

INVOICE #SCS
DATE: FEBRUARY 1, 2006

TO:
WILLIAM DIGGS, ESQ.
1700-D
Myrtle Beach, SC 29577

FOR:
STATE V. STEVEN C. STANKO

DESCRIPTION	HOURS	RATE	AMOUNT
1/10/06 Telephone conversation with Gerald Kelly	1	60.00	60.00
1/18/06 met with Dale Davis to get records and discuss case	2.25	60.00	150.00
1/20/06 File review	1.5	60.00	90.00
1/23/06 File Review	2	60.00	120.00
1/24/06 File Review/tapes	3	60.00	180.00
1/26/06 File review/tapes	2	60.00	120.00
1/27/06 met with attorney Diggs in Myrtle Beach	9	60.00	540.00
1/31/06 Prepared to visit defendant	1	60.00	60.00
Mileage: 265 miles	265 miles	34.5	91.43
		TOTAL	$1411.43

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INVOICE #SCS2
DATE: MARCH 1, 2006

TO:
WILLIAM DIGGS, ESQ.
1700-D
Myrtle Beach, SC 29577

FOR:
STATE V. STEVEN C. STANKO

DESCRIPTION	HOURS	RATE	AMOUNT
2/2/06 review of file/making notes	2	60.00	120.00
2/3/06 going over file and photos/Turner victim	4	60.00	240.00
2/8/06 File review/organization	4	60.00	240.00
2/10/06 File review/organization	3	60.00	180.00
2/23/06 File Review/tapes	2	60.00	120.00
2/27/06 File review/interview preparation	2.5	60.00	150.00
2/28/06 met with client at jail. Interviewed witnesses in Myrtle Beach	10	60.00	600.00
Mileage: 288 miles	288	34.5	99.36
		TOTAL	$1749.36

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INVOICE #SCS3
DATE: APRIL 3, 2006

TO:
WILLIAM DIGGS, ESQ.
1700-D
Myrtle Beach, SC 29577

FOR:
STATE V. STEVEN C. STANKO

DESCRIPTION	HOURS	RATE	AMOUNT
3/3/06 review of file/report writing	1.5	60.00	90.00
3/7/06 emails-Diggs, Davis, re: SCS	1	60.00	60.00
3/8/06 File work, online searches/reading about SCS, blogs,posts	3	60.00	180.00
3/14/06 File work, evidence lists, interview preparation	3	60.00	180.00
3/15/06 case work/tel. with G.Kelly and Dale Davis	2	60.00	120.00
3/24/06 met with SCS and Diggs in Georgetown	4.5	60.00	270.00
3/27/06 met with Diggs, Kelly, Davis in Myrtle Beach and interviewed wit.	9.5	60.00	570.00
3/28/06 met with Diggs & Davis in Georgetown for evidence review and interviews	10	60.00	600.00
Mileage: 566 miles	566	34.5	195.27
		TOTAL	$2265.27

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Total due in 15 days.

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Phone 843-971-0088 Fax 843-971-0302

INVOICE

INVOICE #
DATE: AUGUST 20, 2006

TO:
William I. Diggs, Esq.
1700-D N. Oak St.
Myrtle Beach, SC 29577

FOR:
State of SC v. Stephen C. Stanko
2005-GS-22-918

DESCRIPTION	HOURS	RATE	AMOUNT
6/29/06 Telephone contact with Gerald Kelly	.75	60.00	$45.00
6/30/06 jail to visit client/witness interviews	9	60.00	$540.00
7/10/06 met with Mr. Kelly at GCSO and Conway for evidence review	10	60.00	$600.00
7/12/06 Review evidence logs	4	60.00	240.00
7/13/06 met with Gerald Kelly and Dale Davis in Hampton Co.	8	60.00	480.00
7/17/06 Myrtle Beach witness interviews and document review	8	60.00	480.00
7/20/06 Georgetown evidence and interviews in Myrtle Beach	9	60.00	540.00
7/24/06 Conway witnesses/Myrtle Beach with Diggs and hearing	10	60.00	600.00
7/26/06 jail/client and Myrtle Beach and document review	12	60.00	720.00
7/27/06 telephone with dale Davis, Connie Price and records review	4	60.00	240.00
7/28/06 Conv. With witnesses/ transcripts	4	60.00	240.00
7/31/06 Court Hearing and met with witnesses	14	60.00	840.00
Mileage	1294	.34.5	446.43
		TOTAL	$6011.43

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CHARLESTON, SC 29413-1297
Phone 843-971-0068 Fax 843-971-0302

INVOICE

INVOICE #
DATE: AUGUST 21, 2006

TO:
William I. Diggs, Esq.
1700-D N. Oak St.
Myrtle Beach, SC 29577

FOR:
State of SC v. Stephen C. Stanko
2005-GS-22-918

Childs/Wise
PO Box 21297
Charleston, SC 29413

Addtl. 1 Children

DESCRIPTION	HOURS	RATE	AMOUNT
8/1/06 Conway/subpoena service	9	60.00	540.00
8/2/06 Conway, Court, Subpoenas	10	60.00	600.00
8/3/06 Conway/ witness contacts/met with lawyers	12	60.00	720.00
8/4/06witnesses/ court	12	60.00	720.00
8/5/06 witness contacts	2	60.00	120.00
8/6/06 subpoenas	3	60.00	180.00
8/7/06 Court/paperwork	13	60.00	780.00
8/8/06 subpoena service/Court	12	60.00	720.00
8/9/06 Court/trial prep	10	60.00	600.00
8/10/06 Court/prep for trial	13	60.00	780.00
8/11/06 Court/trial prep	13	60.00	780.00
8/12/06 Penalty phase prep/witness meetings	9	60.00	540.00
8/13/06 Penalty phase prep	2	60.00	120.00
8/14 and 8/15 Court	28	60	1680.00
8/16/06 and 8/17/06 Court	22	60.00	1320.00
8/18/06 Court/8/19/06travel	11	60.00	660.00
Mileage	960	.34.5	331.20
Food expense			274.50
Hotel expense	1	1429.12	1429.12
		TOTAL	$12,894.82

Blazer Investigative
P.O. Box 21297
Charleston, SC 29413
843-971-0088
bigblaze@aol.com
www.blazerinvestigative.co

Invoice

Date	Invoice #
10/7/2009	277

TAX ID # [redacted]

Bill To

William Diggs
1700 N. Oak St.
Myrtle Beach, SC 29577

Re:

OCT 09 2009

Stanko

Quantity	Description	Rate	Amount
3	9/24/09review discovery, police reports, investigative reports, photos case documents	60.00	180.00
7.25	9/25/09 team meeting- met with attorneys to discuss case- saw witness210 miles	60.00	435.00
7.5	9/30/09 went to Lieber prison to see client and discuss defense and investigation 178 miles	60.00	450.00
2	10/4/09 prepared crime scene photos, prepared file to meet with defense crime expert	60.00	120.00
10	met with defense team and expert, viewed evidence, discussed case materials 10/5/09 222 miles Conway and Myrtle Beach	60.00	600.00
9.5	10/6/09 visited scene of crime, met with defense team and expert witness and court witness.242 miles Conway and Myrtle Beach	60.00	570.00
852	mileage	0.505	430.26

Thank you for your business.

Total $2,785.26

Blazer Investigative
P.O. Box 21297
Charleston, SC 29413
843-971-0088
bigblaze@aol.com
www.blazerinvestigative.co

Invoice

Date	Invoice #
11/5/2009	290

TAX ID # [redacted]

Re:

Bill To

William Diggs
1700 N. Oak St.
Myrtle Beach, SC 29577

Quantity	Description	Rate	Amount
6.5	evidence review in Georgetown, SC and database searches for witnesses 10/9/09 126 miles	60.00	390.00
6	to Lieber to visit client and report writing 10/14/09 130 miles	60.00	360.00
1.5	copy evidence photos to disks and conversation with attorney 10/15/09	60.00	90.00
9	met with attorney Williams and mitigation specialist to discuss case and evidence review 10/20/09 258 miles	60.00	540.00
1.5	witness phone calls/location/attorney ph. call 10/23/09	60.00	90.00
0.5	witness phone calls 10/26/09	60.00	30.00
5	personal witness interviews, attorney contact, reports 62 miles	60.00	300.00
1	attorney call, database searches for witness 11/3/09	60.00	60.00
8	evidence review in Georgetown, document copying, witness telephone interviews 11/4/09, 145 miles	60.00	480.00
721	mileage	0.505	364.11

Thank you for your business.

Total $2,704.11

PRIV # 4623

Blazer Investigative
P.O. Box 21297
Charleston, SC 29413
843-971-0088
bigblaze@aol.com
www.blazerinvestigative.co

Invoice

Date	Invoice #
11/5/2009	290

TAX ID # [redacted]

Re:

Bill To

William Diggs /Brana Williams
1700 N. Oak St.
Myrtle Beach, SC 29577

Quantity	Description	Rate	Amount
6.5	evidence review in Georgetown, SC and database searches for witnesses 10/9/09 126 miles	60.00	390.00
6	to Lieber to visit client and report writing 10/14/09 130 miles	60.00	360.00
1.5	copy evidence photos to disks and conversation with attorney 10/15/09	60.00	90.00
9	met with attorney Williams and mitigation specialist to discuss case and evidence review 10/20/09 258 miles	60.00	540.00
1.5	witness phone calls/location/attorney ph. call 10/23/09	60.00	90.00
0.5	witness phone calls 10/26/09	60.00	30.00
5	personal witness interviews, attorney contact, reports 62 miles	60.00	300.00
1	attorney call, database searches for witness 11/3/09	60.00	60.00
8	evidence review in Georgetown, document copying, witness telephone interviews 11/4/09, 145 miles	60.00	480.00
2.5	witness and family contact, social worker contact for trial prep 11/6/09	60.00	150.00
7	serving trial subpoenas and witness interviews 11/10/09 92 miles	60.00	420.00
4	witness and family contact for trial prep, and attorney discussions 11/11/09 63 mi.	60.00	240.00
2	trial prep with witnesses and mitigation social worker, conv. with attorney 11/12/09 60 miles	60.00	120.00
12	trial phase court attendance, travel, and witness contact 11/13/09 154 miles	60.00	720.00
10	trial phase court attendance 11/14/109 10 miles	60.00	600.00
10	trial phase court attendance 11/15/09 10 miles	60.00	600.00
9.5	trial phase court attendance 11/16/09 10 miles	60.00	570.00
8	penalty phase prep with lawyers, mitigation social worker, client jail visit	60.00	480.00
11.5	subpoena service/penalty phase trial 11/18/09 160 miles	60.00	690.00
11.5	penalty phase witness coordination, trial, travel home 11/19/09 147 miles	60.00	690.00
1,427	mileage	0.505	720.64
	hotel expense 11/13-11/19/09	~~437.80~~	~~437.80~~
	meals for 11/13/11/19/09	57.80	~~57.80~~

Thank you for your business.

Total ~~58,836.24~~

4623

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT;

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

FINAL BRIEF OF APPELLANT

ROBERT M. DUDEK
Chief Appellate Defender

ROBERT PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEYS FOR APPELLANT

COPY

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SC OFFICE OF
APPELLATE DEFENSE

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2.

Whether the court erred by accepting a truncated and inadequate waiver of his attorney's conflict of interest in this case where defense counsel represented appellant in his prior trial at which appellant was sentenced to death and defense counsel was the subject of a pending accusation of ineffective assistance of counsel and the court's direction to defense counsel and appellant not to discuss the prior case was impractical and erroneous where the murders were committed closely together, and the insanity defenses at both were inextricably entwined? 20

3.

Whether the court erred by refusing to disqualify Juror #480 where she acknowledged she knew appellant had killed two people and received the death penalty for the prior murder, since the juror's knowledge appellant was under a death sentence jeopardized her sense of responsibility? 30

4.

Whether the Court abused its discretion by refusing to grant a change of venue where appellant's prior death penalty trial in Georgetown County, and the present murder, were the subject of very wide-spread publicity, since appellant was entitled to a fair trial by a jury that was not contaminated? 41

5.

Whether the court erred by allowing all jurors over 65 simply to opt out of jury service over appellant's objection that this denied him the wisdom and experience of that cross-section of the county, since this systematic exclusion of these jurors denied appellant a fair trial? 48

6.

Whether the court erred by ruling that appellant's execution as a brain damaged and mentally ill man did not violate the Eighth Amendment to the United States Constitution, since the evolving standards of decency should now shield an appellant with significant diminished capacity, as well as the mentally retarded from the death penalty? 57

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STATEMENT OF ISSUES ON APPEAL

1.

Whether the court erred by instructing the jury that malice could be inferred from the use of a deadly weapon where appellant raised the defense of insanity which constitutes an excusable homicide and puts the existence of malice in issue factually, and the instruction in this case was in direct violation of the reasoning and logic of State v. Belcher?

2.

Whether the court erred by accepting a truncated and inadequate waiver of his attorney's conflict of interest in this case where defense counsel represented appellant in his prior trial at which appellant was sentenced to death and defense counsel was the subject of a pending accusation of ineffective assistance of counsel and the court's direction to defense counsel and appellant not to discuss the prior case was impractical and erroneous where the murders were committed closely together, and the insanity defenses at both were inextricably entwined?

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Whether the court abused its discretion by refusing to grant a change of venue where appellant's prior death penalty trial in Georgetown County, and the present murder, were the

subject of very wide-spread publicity, since appellant was entitled to a fair trial by a jury that was not contaminated?

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Whether the court erred by allowing all jurors over 65 simply to opt out of jury service over appellant's objection that this denied him the wisdom and experience of that cross-section of the county, since this systematic exclusion of these jurors denied appellant a fair trial?

6.

Whether the court erred by ruling that appellant's execution as a brain damaged and mentally ill man did not violate the Eighth Amendment to the United States Constitution, since the evolving standards of decency should now shield an appellant with significant diminished capacity, as well as the mentally retarded from the death penalty?

STATEMENT OF THE CASE

Appellant was indicted by the Horry County grand jury for the murder and armed robbery of Henry Turner. R. p. 3506. After numerous pretrial hearings appellant's case came to trial on November 14, 2009 before the Honorable Steven H. John, and a jury. William I. Diggs and Brana J. Williams represented appellant. J. Gregory Hembree, Francis A. Humphries Jr., and Jimmy A. Richardson, II were the solicitors. R. p. 1.

At the conclusion of the guilt stage the jury found appellant guilty of murder and armed robbery. R. 2482 ll. 2-25. After a twenty-four hour waiting period, the sentencing hearing commenced. The jury recommended a sentence of death, and that sentence was imposed by the trial judge. R. 2896 ll. 14-23; R. 2905 l. 12 – 2906 l. 19.

This appeal follows.

ARGUMENT

1.

The court erred by instructing the jury that malice could be inferred from the use of a deadly weapon where appellant raised the defense of insanity which constitutes an excusable homicide and puts the existence of malice in issue factually, and the instruction in this case was in direct violation of the reasoning and logic of *State v. Belcher*.

Relevant Facts

At the conclusion of the guilty phase the trial judge gave the jury four verdict options:

(1) Not guilty by reason of insanity;

(2) Guilty but mentally ill;

(3) Guilty of murder and armed robbery; or

(4) Not guilty

R. 2474 l. 14- 2476 l. 7.

The defense presented expert testimony that appellant's crimes, the murder of his girlfriend, and then shortly thereafter his friend, Henry Turner, were done without any foresight, caution, or thinking of the consequences. For example, appellant took his girlfriend's credit card to an ATM where he knew he would be photographed. Similarly, appellant went to church with a woman in Augusta a couple of days after the murder where the church service was televised. All of this was where any rational person would have known he was the subject of a giant manhunt and he would have been taking precautions not to be apprehended. R. 1845 l. 1 - 1871 l. 25.

Psychiatrist, Dr. Thomas Sachy testified, in camera, as the defense laid the foundation for its not guilty by reason of insanity defense that appellant did not know legal and moral right from wrong at the time he committed the crimes. R. 1898, l. 1- 1902, l. 25. Dr. Sachy is a neuropsychologist in private practice in Georgia. R. 2176, ll. 20-21. After completing his undergraduate degree at the University of Calgary, Sachy earned a Master of Science in Biology from Georgia State University and a medical degree from the Medical College of Georgia in Augusta. R. 2176, l. 24 – 2177 l. 4. After graduating medical school, Sachy completed a Psychiatry residency and a Behavioral Neurology Fellowship at MUSC. R. 2177, ll. 8-11. He then completed a Fellowship in Forensic Psychiatry at Emory University. R. 2177, ll. 11-12

Following Dr. Sachy's in camera testimony defense counsel asked the judge to conclude the defense had made out a *prima facie* showing that appellant was insane. The trial judge ruled appellant could pursue his insanity defense assuming Dr. Sachy's testimony was consistent before the jury, which as seen infra it was. R. 1909 l. 1- 1910, l. 4.

Appellant presented an abundance of evidence showing appellant had an abnormal brain, particularly in the frontal lobes which control a person's judgment, his impulses, and his ability to feel empathy for others. Dr. Bernard Albiniak had a Master's of Science in Physiological and Developmental Psychology. R. 1913, ll. 3-4. He was a professor of psychology at Coastal Carolina University, and he specialized in physiological and developmental psychology. Dr. Albiniak testified that physiological psychology was a study of relating "brain function and brain structure to human behavior." R. 1912 l. 12- 1913 l. 9.

Dr. Albiniak attributed appellant's brain problems to several sources. One was that his mother had a complicated pregnancy when appellant was born in Guantanamo Bay, Cuba. The physicians were concerned about the reduced oxygen supply to appellant's brain during "the birthing process, and feared for his survival, the way I read the record." Dr. Albiniak also testified:

> The second incident occurred when he was about sixteen years old. He got hit in the back of the head with a beer bottle, the rear of the head, and the bad part about that is, the brain floats in the skull. It's not solid. It floats in your skull. If you get hit in the rear of the head it drives the brain forward, and it hits his frontal bone, and that would mean the damage won't necessarily be at the rear—the skull will be—but the damage will be on the frontal lobes of the brain, when it drives forward, and he lost consciousness during that episode, which is never a good thing.

R. 1951 l. 10- 1952 l. 1

Dr. Albiniak explained that appellant's abnormal brain in the frontal lobes could not repair itself: "Its simply lost, and that's lost forever." R. 1943 ll. 13-24. Dr. Albiniak explained that where the frontal lobe was missing tissue "there is some loss of function in the frontal lobes, and primarily impulse control, decision-making, those important functions..." Dr. Albiniak testified that if there was a real or perceived provocation: "[T]his individual is more likely to act out than you or I would be." R. 1943 l. 23- 1944, l. 1. Dr. Albiniak's findings were based on P.E.T. scan done by Dr. Joseph Chon-Sang Wu, who would later testify as a defense witness. R. 1944 ll. 3-6; R. 1954 l. 21- 1956 l. 13.

The jury had earlier heard testimony from Brent Turvey, an expert in crime scene analysis and reconstruction, that appellant's relationship was the decedent was a "complete fraud." R. 1872, l. 19 – 1873, l. 22. Turvey said that appellant did not go to the decedent's

house with the intention of killing him. R. 1860, ll. 9-20. Turvey also related that the decedent's girlfriend received a telephone call from the decedent shortly after appellant arrived telling her appellant was there, and appellant was telling him about his allegedly dead father. They talked about it all night. R. 1860, 21 – 1861, l. 4.

Turvey opined that the decedent was an alcoholic, and a photograph of the crime scene, his house, showed a Yuenaling beer was on the table along with two cigarette butts in an ashtray. R. 1589, ll. 2-23; R. 1860, ll. 13-16. The decedent's son had already seen the news about appellant and the murder of his girlfriend on the 11:00 news. R. 1534, l. 9 – 1535, l. 23. Dr. Albiniak testified "all kinds of things" could have been perceived as a threat to appellant when he shot the decedent. R. 1955, l. 5 – 1957, l. 2. Dr. Albiniak told the solicitor on recross-examination that it was "unlikely, but its possible" that the "stimulus" that caused appellant to shoot the decedent may not have been the decedent himself. R. 1956, l. 24 – 1957, l. 2.

Dr. Ruben Gur is a psychiatrist with secondary "appointments in Neurology and in Radiology, and I also work at the Philadelphia V.A. Hospital in the Behavioral Services section. I direct the Brain Behavior laboratory at the University of Pennsylvania, and head the Center for Neuroimaging in Psychiatry." R. 2012 ll. 17-22. Dr. Gur had a degree from the Hebrew University of Jerusalem in Israel and he did his post-doctoral fellowships at Stanford University and the University of Pennsylvania. R. 2012 l. 23- 2013 l. 11.

Dr. Gur concluded appellant had two types of problems, "the frontal lobe problem, and the medial gray matter, limbic system problem." R. 2061 ll. 5-9. Dr. Gur said "the damage in the medial gray matter, and especially at four standard deviations below normal, we don't see it in normal people. It just doesn't happen ... its extreme." R. 2061 l. 24- 2062

l. 9. Regarding appellant's frontal lobes Dr. Gur stated that "[L]ess than one percent, or maybe a quarter of a percent of healthy people may have those kind of values." R. 2062 ll. 10-15.

Defense counsel asked Dr. Gur:

> Q. Based on your results, with the results that you found in Defendant Stanko's brain, do you think the – is it consistent to say, or can you say that you think that it would be natural that he would pre-plan things, or be very active?
>
> A. It's a difficult question to answer. *The reduced volume in the amygdala will increase his vulnerability to react to a perceived threat.* The frontal lobe reduction will reduce his ability to control it, but there are – most of the damage is in the inferior orbital frontal part, so the more intellectual part of planning is still intact.
>
> Q. Okay. And with the perceived threat, the frontal lobe being more damaged, would that – does that mean that it can't do as good a job to determine whether perceived threat is or is not?
>
> A. Yes. It would—
>
> Q. If it's real or if it's not. That's what I meant to say.
>
> A. Yes. *If the frontal lobe is damaged it will diminish its ability to distinguish real from perceived threat that is really not real.*

R. 2070 l. 9- 2071 l. 3.

Dr. Joseph Chon-Sang Wu was a professor of the Department of Psychiatry and Human Behavior at the University of California at Irvine, College of Medicine. Dr. Wu completed a two-year fellowship in P.E.T. Scan Imaging of the brain and he was the Clinical Director of the University of California at Irvine Brain Imaging Center. R. 2105 l.

15- 2106 l. 13. Dr. Wu explained to the jury on the P.E.T. Scan video that the base of the frontal lobe of appellant's brain was abnormal. R. 2136, l. 11- 2137 l. 19.

Dr. Wu also testified that: "[T]his is the primary lesion or injury that Mr. Stanko's brain shows, the floor of the frontal lobe defect or injury ... this part of the frontal lobe is very important part of the frontal lobe which involves things such as impulse control and judgment." R. 2138 ll. 7-25. Dr. Wu also said an injury to this part of the brain impaired "[a]n individual's ability to exercise judgment, [and] impulse control. " Dr. Wu analogized this type of brain defect to a computer in a Lexus or Toyota going "haywire" where you "[h]ave an out-of-control brain, the way this Lexus went out of control and ended up killing the C.H.P. California Highway Patrol officer and his family." R. 2140 l. 13- 2141 l. 13.

Dr. Wu explained that the inner shell of appellant's brain: "[I]s more than four standard deviations below normal, which is probably less than one in – so that means nine hundred ninety-nine out of a thousand people, maybe even more, would have a brain bigger than Mr. Stanko's in this part of the brain." Dr. Wu repeated that this part of the brain controls "moral judgment, impulsivity, and aggression." R. 2153 l. 15- 2154 l. 8.

Dr. Thomas Sachy, a neuropsychiatrist, then testified consistently with his in camera testimony that appellant was legally insane at the time he committed the crimes. R. 2204 l. 13- 2206 l. 24; R. 2208 l. 6- 2212 l. 5; R. 2219 ll. 6-16; R. 2254 l. 10- 2255 l. 1. Dr. Sachy told the jurors "you don't have any choice on how your brain works." R. 2205 ll. 3-12. "[W]hen someone's brain is damaged, and it effects their behavior or cognition, they have no choice. That's happened to them. Its done, and an act of God has happened." R. 2205 ll. 3-12.

Dr. Pamela Crawford testified for the state that her initial involvement in this case was as a consultant for SLED. R. 2280 l. 14- 2281 l. 12. Dr. Crawford said that appellant had a severe personality disorder with anti-social and narcissistic features. R. 2292 ll. 12-16. The state presented the testimony of Dr. William Brannon. Dr. Brannon disagreed with Dr. Sachy's findings and he opined appellant's MRI was a normal image. R. 2326 l. 25- 2327 l. 9.

Dr. Kenneth Spicer testified as a state's witness and he disputed findings that appellant's PET scans were abnormal. R. 2353 ll. 9-18. Dr. Spicer also questioned the manner in which the PET scanning on appellant was done and he opined that experts had to be careful of "overcalling" their findings. R. 2402 l. 20- 2410 l. 20.

State v. Belcher

During the charge conference defense counsel argued that the court should not instruct the jury that malice can be inferred by the use of a deadly weapon based on this court's opinion in State v. Belcher. The same rationale in this insanity case applied to the reasoning of self-defense in Belcher, and the defense therefore requested that this inference of malice be deleted from the judge's charge. R. 2478 ll. 4-14.

The judge then stated that he had read State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009), thoroughly and he disagreed that it was proper to delete the inference of malice charge based on the facts of this case. The judge ruled "the Supreme Court didn't indicate that in the slightest." R. 2478 l. 23- 2479 l. 1

Discussion

In State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009) this Court held that a jury instruction that malice may be inferred from the use of a deadly weapon is no longer good law in South Carolina where there is evidence presented that would ***reduce, mitigate, excuse*** or justify the killing. Insanity is a disability that excuses the crime. LaFave, Substantive Criminal Law, §9.1(a)(4) Excuses and other conditions at p. 8 (2d ed. 2003). "**Excusable homicides include** those in which the killing was accidental and in which no one involved was criminally negligent or reckless **and those committed by the criminally insane.**" McAninch, Fairey, and Coggiola, The Criminal Law of South Carolina, Offenses Against the Person, at p. 77 (5th Ed. 2007). (emphasis added). Another jury verdict option, guilty but mentally ill, was a verdict finding that reduces or mitigates the crime.

Further, as seen above, there was an plethora of evidence in this case of appellant's brain abnormalities which prevented him from exercising judgment and controlling his impulses. Thus, for the same reasons that the inference of malice from the use of a deadly weapon had no place where there was evidence of self-defense as in Belcher, the jury instruction that the jury could infer malice from the use of a deadly weapon was erroneous and highly prejudicial in this case also.

That inference of malice from the use of a deadly weapon instruction had to confuse the jury where the jury had before it extensive evidence that appellant was not guilty by reason of insanity -- he did not know the difference between legal right and wrong -- and evidence that because of his brain abnormalities he could not exercise judgment and control his impulses as a normal person would be expected to do.

The trial judge must charge "the current and correct law." S.C. Const. V, §17; State v. Adams, 277 S.C. 115, 120, 283 S.E.2d 582, 585 (1981). The purpose of jury instructions is to enlighten the jury and to aid it at arriving at a correct verdict. State v. Leonard 292 S.C. 133, 137, 355 S.E.2d 270, 273 (1987). Further, "[s]uperimposing a correct state of law over an erroneous charge only fosters confusion and prejudice." State v. Robinson, 306 S.C. 399, 401-402, 412 S.E.2d 411, 413 (1991); State v. Patrick, 289 S.C. 301, 308, 345 S.E.2d 481, 485 (1986). Moreover, trial judge's should not give jury instructions which do not fit the facts of the case as such charges may tend to confuse the jury. State v. Leonard, supra.

Belcher controlled in this case and the trial judge respectfully was incorrect in reasoning that a not guilty by reason of insanity defense was not contemplated by Belcher. The jury had to be hopelessly confused with an instructions on not guilty by reason insanity and competing instruction that it could infer malice from the use of a deadly weapon.

As in Belcher the erroneous instruction that malice may be inferred from the use of a deadly weapon cannot be considered harmless here. There was abundant evidence that appellant had abnormalities in the part of his brain, the frontal lobes, where appellant's judgments and impulses were supposed to be controlled. As in a self-defense case where self-defense excuses the homicide, it is impossible to determine how the jury attempted to reconcile that it could infer malice from appellant's use of a deadly weapon against evidence that he was incapable of distinguishing between moral and legal right and wrong and incapable of controlling his actions because of his brain abnormalities. See, State v. Belcher 385 S.C. 597, 611, 685 S.E.2d 802, 809-810 (2009). Under the judge's charge, the jury had every right to find malice merely from the use of a deadly weapon.

The erroneous inference of malice from the use of a deadly weapon jury instruction was reversible error because it was not harmless beyond a reasonable doubt. See, Rose v. Clark 478 U.S. 570 (1986). It also cannot be correctly held that the erroneous inference of malice instruction could not have contributed to the verdict given its obviously confusing nature in this case. See, Plyler v. State 309 S.C. 408, 424 S.E.2d 477 (1992). Appellant should be granted a new trial.

2.

The court erred by accepting appellant's truncated and inadequate waiver of his attorney's conflict of interest in this case where defense counsel represented appellant in his prior trial at which appellant was sentenced to death, and defense counsel was the subject of a pending accusation of ineffective assistance of counsel in PCR. The court's direction to defense counsel and appellant not to discuss the prior case was impractical and erroneous where the murders were committed closely together, and the insanity defenses at both trials were inextricably entwined.

Relevant Facts

On March 4, 2009 a pre-trial hearing was held. The trial judge stated that he was aware appellant had filed a post-conviction relief action alleging trial counsel Diggs provided ineffective assistance of trial counsel during his first trial.[1] R. 2957, ll. 17-25. The judge noted: "It seems to me, at least questionable, if not inconsistent, that Mr. Diggs remain as trial attorney and in this particular case when a post-conviction relief action has been filed against him by Mr. Stanko." R. 2958, ll. 1-6.

Defense counsel Diggs said he had not seen the post-conviction relief application and he did not have any input into the substance of that application. The judge then levied the following prohibition if Diggs remained appellant's attorney:

> And obviously, you know, *there are boundaries obviously that you cannot communicate with Mr. Stanko about that.* You don't represent him in that particular matter and obviously he's filed a complaint in that matter or at least a PCR application that alleges at least in part of it ineffective assistance of counsel, so you being the – not the responding

[1] This Court noted in its prior opinion that appellant raised an insanity defense during the first trial. State v. Stanko, 376 S.C. 571, 658 S.E.2d 94 (2008).

> party, but obviously *there are issues and things that you may not discuss with him*, but you can certainly, I assume, and have – and if you haven't, you certainly need to, communicate with him about your continued representation of him regarding this particular case. Have you done that?

R. 2958, ll. 12-23. (emphasis added).

Defense counsel Diggs responded that he understood appellant wanted him to remain as his attorney. R. 2958, l. 24 - 5, l. 3.

The judge then addressed appellant about "some inconsistency or *if not a downright disqualification of Mr. Diggs in this matter regarding you filing a post-conviction relief application in the previous case* that arose out of Georgetown and his continued representation of this particular matter." R. 2959, l. 8- 2961, l. 10. (emphasis added). Appellant then told the judge that the PCR application was filed by Appellate Defender Kathrine Hudgins "in order to stop the death watch..."[2] Appellant told the judge that he intended to file an amended PCR application. R. 2959, l. 8 - 2961, l. 10.

The judge asked appellant if he intended to adopt the PCR application filed by Appellate Defender Hudgins. Appellant answered vaguely: "Not completely, no, sir. I had requested that issue whenever I spoke with her and [co-appellate counsel] Mr. Savitz that is not the way I had agreed that the immediate application was going to be filed. There is an issue that's still – *and I really can't discuss it right now.*" R. 2960, ll. 2-12. (emphasis added).

Appellant also said until he met with the two attorneys who had been appointed to represent him in his capital PCR case – the Ling murder -- that he could not be sure what

else would be filed on his behalf. Appellant also noted that defense counsel Diggs was going to present a very similar defense in this case as he did in the prior death penalty trial and appellant speculated that if Counsel Diggs made legal errors he would acknowledge that "he should have done something differently during the first trial." R. 2960, l. 15 - 2961, l. 10.

Appellant offered that he had planned to meet with one of his PCR attorneys, Bill Godfrey, on Friday but that meeting had been cancelled. Appellant asked the judge if the only way he could keep defense counsel Diggs as his attorney was to waive an ineffective assistance of counsel claim against him. The judge responded that he was not asking appellant to waive his claims against Diggs. Appellant said he trusted Diggs and co-counsel Brana Williams. R. 2962, l. 19- 2963, l. 10. The judge asked appellant that when he filed an amended PCR application, if he did file an amended application, to inform his attorney who would forward a copy of the amended application to the trial judge for his consideration. R. 2963, ll. 11-20.

Defense counsel Diggs said this was "not an ego thing. I don't have a problem with him making that allegation [of ineffective assistance of trial counsel]." Defense counsel then asked the judge to "monitor" his representation of appellant during the trial: "[I]f you see maybe a conflict in theories, you know, that I may be advancing and you see that I may be undermining, you know, the overall state, I guess, of Mr. Stanko's case against the State of South Carolina, you might want to re-visit that issue, but I personally don't have a problem." R. 2964, ll. 10-21.

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[2] Appellant was apparently referring to the 180 day death penalty statute of limitations in federal habeas if South Carolina becomes an "opt in" state in the future.

The judge ruled that he would allow defense counsel Diggs to continue as appellant's attorney "[w]ith the ability for the Court to re-visit it in the future should there be issues in the amended application that either give the Court any concern or Mr. Stanko, or Mr. Diggs concerns as to Mr. Diggs continued representation in this matter." R. 2964, l. 22-2965, l. 5.

Defense counsel Williams was uneasy with this situation. She asked the judge about the ramifications of defense counsel Diggs being removed in the future as trial counsel. The judge recognized that there was certainly "the potential for that happening." Williams worried that the defense may not be able to adjust "if we continue to proceed with this and all of a sudden Mr. Diggs is yanked out of the case, there is a major hole left in Mr. Stanko's defense." R. 2967, ll. 14-20.

The judge acknowledged the potential for that occurring, but he maintained: "We aren't anywhere close to that. I've not indicated that I would remove Mr. Diggs. I wanted to raise the issue." R. 2967, ll. 3-23. The judge said that he thought there was a good level of interaction and trust between defense counsel Diggs and appellant and that barring something unusual he was not going to conflict defense counsel Diggs off appellant's second death penalty trial. R. 2968, ll. 2-14.

Discussion

As seen, the judge instructed counsel Diggs not to communicate with appellant about the pending ineffectiveness allegations against him in the post-conviction relief case involving the first murder trial where appellant also asserted an insanity defense. The judge initially -- and appellant submits correctly -- observed that it appeared there should be "[a] downright disqualification of Mr. Diggs in this matter..." R. 2959, l. 8- 2961, l. 10.

Appellant indicated that counsel Diggs may have learned from his mistakes during the first insanity defense trial. However, counsel Diggs told the judge the court may want to "revisit" the disqualification issue if "you see maybe a conflict in theories... that I may be advancing and you see that I may be undermining... the overall state... of Mr. Stanko's case against the state of South Carolina..." R. 2964, ll. 10-21.

The truncated waiver in this case was inadequate since appellant was essentially offering the same not guilty by reason of insanity defense he unsuccessfully offered during the Ling death penalty trial, and as seen infra appellant was not warned – **at all** -- of the risks he was raising and the potential PCR issues he effectively was waiving

While there is no case from this state directly on point as to whether an attorney who represented a defendant during a previous capital trial should be allowed to represent the defendant during a second capital trial – where he is offering the same defense that had already failed – and where that attorney is a target of a pending allegation in post-conviction relief that he provided ineffective assistance of counsel during the first capital trial.

It is elementary that a defendant has a right to conflict free counsel. See, SC Code 1976, § 20-7-110(2); See also, Von Moltke v. Gillies, 332 U.S. 708, 725 (1948); U.S. v. Wheat, 813 F.2d 1399 (Cal. 1987). "The effective assistance of counsel is a necessary requisite of due process of law." Rogers v. State, 261 S.C. 288, 290, 199 S.E.2d 761 (1973), citing, State v. Cowart, 251 S.C. 360, 162 S.E.2d 535 (1968).

An attorney should not represent a defendant where counsel's adequacy is in question. See, People v. Norris, 46 Ill.App.3d 536, 541, 361 N.E.2d 105, 110 (Ill. App. 1977).

For example, other courts have held that it is a conflict of interest for counsel to represent a client at a PCR hearing where the claim is against him or another member of counsel's office. Adams v. State, 380 So.2d 421, 422 (Fla. 1980) ("Because of these allegations, the public defender of the Nineteenth Judicial Circuit has a *hopeless conflict of interest* which precludes his representation of James Adams in this proceeding") (emphasis added); at sentencing hearings where there is an potential IAC claim against counsel, People v. Fields, 88 Ill.App.3d 821, 410 N.E.2d 1178 (Ill. App. 1980); Owens v. State, 792 So.2d 650, 654 (Fla. App. 2001) ("In this case, defense counsel could not effectively represent appellant during sentencing as to both cases when he faced a possible ineffectiveness of counsel claim. The more counsel said, the more he put into the record which could later be used against him in the ineffectiveness claim."); at post-trial plea withdrawals where counsel or a member of counsel's office represented defendant at the plea hearing, People v. Norris, 46 Ill.App.3d at 541, 361 N.E.2d at 110 ("Although an attorney should not argue his own inadequacy or that of his office, he is under a duty to withdraw as counsel when the issue arises."); and at trial where defendant is denied his pre-trial motion for new representation and subsequently files a federal action against counsel's office, Odum v. State, 283 Ga.App. 291, 293, 641 S.E.2d 279, 281 (Ga. App. 2007) ("If raised pre-trial, a potential conflict of interest is sufficient to bar that representation.").

The United States Supreme Court has stated that "courts have an independent interest in assuring compliance with ethical standards and the appearance of fairness." United States v. Wheat, 486 U.S. 153, 153 (1988). The body of law surrounding conflict

of interest issues indicates a strong desire to maintain the indicia of fairness and propriety.

To cure a conflict of interest, a defendant can make an informed waiver. Holloway v. Arkansas, 435 U.S. 475, 483 n. 5, (1978). The waiver of a constitutional right, including the right against self-incrimination or the right to jury trial, must be knowingly and intelligently made with a full understanding the breadth of the conflict and potential consequences of continued representation. Brady v. United States, 397 U.S. 742 (1970). In Wroten v. State, 301 S.C. 293, 391 S.E.2d 575 (1990), this Court stated that "the ultimate test" for whether a waiver of right to counsel is effective is the defendant's *understanding* of the risks involved. Id. at 294. (emphasis added).

Here, appellant was not questioned *at all* about any potential risks he faced by having counsel Diggs represent him and essentially offer the same defense that was unsuccessful during the first death penalty trial. Further, counsel Diggs and appellant were advised it would be improper to talk about the PCR claims where here the murders occurred a short time apart and the facts of both murders were inextricably entwined since the state's case was that appellant killed Ling and was using Turner to hide out and plan his next move. Diggs also wanted the judge to advise him if the judge thought his continued representation became problematic during the trial. That placed the trial judge in an untenable situation of "monitoring" the adequacy of defense counsel's representation which was a confusion of his judicial role.

In United States v. Swartz, 975 F.2d 1042 (4th. Cir. 1992), where counsel also represented a co-defendant to Swartz's detriment, the Court articulated the proper line of questioning for an effective conflict waiver:

> "[T]he court must personally address each defendant and inform him of the potential hazards of representation by a single attorney, as well as his right to separate representation. In turn, the defendants are free to ask the court questions about the nature and consequences of the representation:
>
> Most significantly, the court should seek to elicit *a narrative response* from each defendant that he has been advised of his right to effective representation, that he understands *the details of his attorney's possible conflict of interest and the possible perils of such a conflict*, that he has discussed the matter with his attorney or if he wishes with outside counsel, and that he voluntarily waives his Sixth Amendment protections."
>
> Id at 1049; citing, U.S. v. Akinseye, 802 F.2d 740, 745 (Md. 1986)

The Court's questioning of appellant here was limited to whether he wanted Mr. Diggs to continue representing him. R. 2961, ll. 16-23. While a defendant's relationship with his appointed counsel should be considered before that attorney is removed, the right to counsel of choice can be overcome by a showing of actual conflict or serious potential conflict. State v. Goldsberry, 419 Md. 100, 118, 18 A.3d 836, 847 (Md. 2011); United States v. Wheat, 486 U.S. at 159 ("the essential aim of the Amendment is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers.").

The law requires that the record reflect a defendant's *full understanding* of any negative consequences arising from the conflict. U.S. v. Swartz, 975 F.2d at 1049.

Because, appellant's previous sentence was the death penalty, anything that affects his appeal process from that case is of extreme importance.

Appellant essentially told the judge that his decision to keep counsel Diggs, even though there were pending allegations of ineffective assistance of counsel against him was because he believed that any other attorney besides Diggs may not believe in his defense – which had failed to first time during the Ling trial. R. 2963, ll. 4-10.

Because both the right to counsel and the right to counsel free from conflicts and "devoted to the interests of his client" are derived from the Sixth Amendment, the standard for determining whether a conflict of interest is effectively waived should be at least as thorough as an effective waiver for a right to counsel. See Von Moltke v. Gillies, 332 U.S. at 725; United States v. Wheat, 813 F.2d. 8, ll. 22-25.

Appellant gave two analogies in order to explain his desire to maintain Diggs that serve to illustrate his misunderstanding of the conflict and potential drawbacks:

(A) There's a Solicitor that was in this case [Fran Humphries] that had been sanctioned for previous misconducts, but he's still a solicitor; and

(B) If you have Derek Jeter – a good baseball player -- and in the ninth inning of the final game of the World Series he commits an error that costs his team the game, that does not mean you do not "want him back starting next season."[3] R. 2962, ll. 9-18.

Neither example evidences an understanding of the consequences of keeping counsel Diggs as appellant's counsel. They both merely assert that appellant understands that being charged with an ineffective assistance of counsel claim does not prevent Mr.

[3] Baseball fans have no right to PCR Jeter by accusing him of professional incompetence and malpractice and forcing a replay of the game lost through his error. The Virginia Supreme Court characterizes a

Diggs from maintaining his position as an attorney or his reputation. This is especially true given the judge's unworkable instruction to appellant and counsel Diggs not to discuss the prior case. The prior case involved a murder committed shortly before the murder in this case where all of this was part and parcel of a continuing chain of events, where the defense in this case was the same as the Ling case. It respectfully appears the unworkable instruction – with a promise to possibly revisit the conflict issue later during the trial -- was unprecedented if not, respectfully, also bizarre.

Given the nature of the trial and the severity of the sentence, the trial court should have thoroughly questioned appellant about the extent of his understanding of the conflict and its potential consequences. The attempted waiver in this case did not do so. Again, this was appellant's second death penalty trial where he offered an insanity defense where the two murders were committed very close together. The brief disjointed conflict waiver colloquy in this case was legally inadequate and appellant should be granted a new trial.

Finally, based on the cases cited above, and what occurred in this case, appellant respectfully submits that this Court should erect a per se bar prohibiting counsel in a death penalty case from representing the same defendant in a subsequent death penalty trial where counsel is the subject of a pending PCR as a result of the first death penalty trial.

3.

The trial court erred in denying appellant's motion to disqualify Juror # 480 because she had knowledge of appellant's prior convictions, including his sentence of death, his

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criminal lawyer being held ineffective as "professional disgrace." Mu'Min v. Commonwealth, 239 Va.

present charges, and because she said she would vote for death in every instance if there were an aggravating circumstance.

Relevant Facts

Defense counsel used all ten of his peremptory challenges and, therefore, could not keep Juror # 480 off of the jury. During jury qualification, defense counsel sought to disqualify ten prospective jurors because they had knowledge of appellant's prior case and/or this present case. He eventually struck the first nine during jury selection. These ten prospective jurors were # 612[4] R. 30, l. 4 – R, l. 10, # 281 R. 54, l. 24 – 79, l. 19, # 446 R. 144, l. 11 – 164, l. 25, # 67, R. 229, l. 23 – 246, l. 8, # 298 R. 296, l. 22 – 316, l. 4, # 466 R. 316, l. 11 – 330, l. 13, # 330 R. 454, l. 6 – 480, l. 23, # 510 R. 494, l. 9 – 511, l. 24, # 103 R. 558, l. 4 – 574, l. 3, and # 236 R. 624, l. 24 – 646, l. 13.

Juror # 612 explained during voir dire that she read about Stanko in newspaper reports and on the internet and learned that "he went to trial for the murder of the girlfriend, and that he was convicted and waiting for a date [to be executed]." R. 47, l. 24 – 48, l. 8. She candidly offered: "It's difficult not to have an opinion when somebody has been convicted once" and that when someone is "waiting for the date" it "kind of seems redundant" to spend government funds to try them for a different charge. R. 33, l. 20 – 35, l. 5.

When Juror # 281 was questioned during voir dire regarding her knowledge of Stanko she stated, "I know Mr. Stanko took Henry Turner's life, and then went down to Georgetown, I think to a girlfriend's house, and took either the girlfriend or the

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433, 452, 389 S.E.2d 886, 898 (1990).

[4] Page numbers refer to the jury voir dire transcripts dated November 9-12, 2009.

daughter's life as well, and there was some other foul play involved." R. 59, ll. 4-17. This prospective juror also explained that she worked for five years with Henry Turner's son, Roger, at Dick's Pawn Shop. R. 60, l. 22 – 61, l. 16. When defense counsel questioned her she stated that she knows "he's already been tried and convicted," but she could not recall the sentence Stanko received. R. 71, ll. 11-25.

Juror # 446 testified during voir dire that she heard about Stanko's case on T.V. and read about it in the newspaper and learned "that he killed his girlfriend and he raped her daughter, and he killed Mr. Turner." She stated that she did not know anything "more particular than that." R. 150, ll. 14-24.

Juror # 67 admitted while being questioned by the court that his knowledge of Stanko's conviction for the other crime had led him to believe that Stanko was guilty of the current charges as well. R. 235, ll. 5-22. After further discussion with the court, the prospective juror stated that he could put this opinion aside and decide the case solely on information received in the courtroom. R. 236, ll. 2-7. When asked by defense counsel to elaborate on his knowledge of Stanko, Juror # 67 explained that he knew "that he was charged and found guilty of . . . [the] murder of his girlfriend" and that the sentence Stanko received "was the death penalty." R. 241, ll. 3-14.

Prospective Juror # 298 told the court during voir dire that she remembers the headlines in the news regarding Stanko's previous case and knows Stanko was charged with "the murder of his girlfriend, I guess, and the rape of somebody." R. 301, l. 22 – 302, l. 24.

During voir dire, Juror # 466 likewise testified that she had previous knowledge of Stanko. She stated, "I knew that there was – let me recall – a death of a woman, and

assault on a juvenile, and possibility a subsequent death of another individual." R. 320, l. 17 – 321, l. 2.

When questioned by the court during voir dire, Juror # 330 explained, "I remember the Defendant being accused of taking the lives of two individuals, and I believe he had already been tried for one of those, and that she was a librarian, I believe." R. 458, ll. 1-17. When prodded further by defense counsel, this prospective juror admitted that she knew Stanko "was found guilty" in the first murder trial and that "I believe it was death," referring to the sentence he received. R. 468, ll. 2-16.

Prospective Juror # 510 similarly testified that she remembers hearing about Stanko. She stated, "I know there was another trial . . . I don't know a lot of the facts about it though." When questioned by the court if she remembered the result of that trial, the juror responded, "I think they imposed the death penalty." R. 500, ll. 3-16.

Prospective Juror # 103 also admitted that she had heard about Stanko's previous case. When asked by the court what she remembered, she testified, "Well, that he was convicted for the one in Georgetown, and that, you know, they thought that he killed a man in Horry County." When prodded further by the court regarding whether she remembered the sentence Stanko received in the Georgetown trial, the prospective juror responded, "Death." R. 562, l. 22 – 563, l. 9.

Juror # 480, whom appellant could not strike, said during voir dire that what she remembered about appellant was "that he had murdered his girlfriend, and left the daughter for dead." He "then came into Conway and murdered a man in Conway." R. 630, ll. 12-16. Later, she said she knew appellant had been sentenced to death. R. 635, ll. 14-20.

The prospective juror also said she would be predisposed to vote for the death penalty as opposed to life imprisonment if the State presented evidence of an aggravating circumstance. She said she would do so in every case. After she said this, the trial court was able to get the juror to say she could consider life or the death penalty. R. 639, l. 18 – 681, l. 23.

Defense counsel argued that the juror was not qualified because of her prior knowledge of appellant, his death sentence, and her position on imposing the death penalty. The trial court found her qualified. R. 644, l. 7 – 646, l. 13.

As stated, during jury selection, defense counsel struck all of the above jurors with the exception of Juror # 480 because he had used all ten of his strikes by that time.[5] R. 1296, l. 18 – 1315, l. 11. Before Juror # 480 was seated defense counsel noted on the record that he had exhausted his strikes.[6] R. 1313, ll. 16-21. The jury was empanelled, withdrawn from the courtroom and defense counsel said he had the same objections to the jurors as he previously stated. R. 1322, l. 20 – 1324, l. 10.

After a change of venue motion was heard, defense counsel put on the record that if he had not been out of strikes, he would have used a peremptory strike to excuse Juror # 480. He said she had prior knowledge of the case and she knew of appellant's death

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[5] Juror # 236 was also struck before Juror # 480 to complete defense counsel's ten strikes. R. 1300, ll. 3-15. Juror #236 had heard appellant's name and knew his name was connected to a murder. R. 1413, l. 23 – 1414, l. 12. The juror also named. Solicitor Hembree, went to the same church as the solicitor, and her husband was in Bible study with him. In addition, Juror #236's son had been murdered and she acknowledged it impacted her daily. R. 1408, l. 25 – 1410, l. 5.

[6] Exhausting all ten strikes is necessary for appellate review of juror qualification issues this Court held 3-2 in State v. Bixby, 388 S.C. 528, 698 S.E.2d 572 (2010). See, also, State v. Bennett, 301 S.C. 347, 392 S.E.2d 157 (1990).

sentence. R. 1386, l. 6 – 1387, l. 15. Prior knowledge that appellant was under a death sentence would jeopardize the juror's sense of responsibility. R. 1388, ll. 7-24. In addition, knowledge that another jury sentenced appellant to death and of the prior charges put appellant's character into issue. R. 1388, l. 25 – 1389, l. 20. There was no presumption of innocence in appellant's case because he had an imposed death sentence. R. 1412, l. 22 – 1413, l. 20.

The juror's prior knowledge disqualified her

The trial court's decision not to disqualify juror #480 was in error. In Mitchell v. State, 298 S.C. 186, 379 S.E.2d 123 (1989) this Court wrote:

> In a criminal case, the State cannot attack the character of the defendant unless the defendant herself first places her character in issue. State v. McElveen, 280 S.C. 325, 313 S.E.2d 298 (1984). State v. Swords, 279 S.C. 554, 309 S.E.2d 750 (1983). State v. Gamble, 247 S.C. 214, 146 S.E.2d 709 (1966). Further, evidence of prior bad acts is inadmissible to show criminal propensity or to demonstrate that the accused is a bad person. State v. Johnson, 293 S.C. 321, 360 S.E.2d 317 (1987).

In State v. Ross, 272 S.C. 56, 59, 249 S.E.2d 159, 161 (1978), this Court noted that "[c]haracter evidence is so highly prejudicial that it is usually excluded under hard and fast rules." In Mitchell v. State, supra, defense counsel was held ineffective for failing to object to improper character evidence. In State v. Gamble,[7] supra, a conviction in a death penalty case was reversed because the defendant's character was put into issue when other crimes were brought into evidence which were not related to the crime for which the defendant was being tried.

In State v. Johnson, supra, another death penalty case, the defendant's conviction for murder was reversed because excessive evidence of a prior murder was introduced into evidence. As this Court held in State v. Gore, 283 S.C. 118, 322 S.E.2d 12 (1984), when the prior bad act is strikingly similar to the one for which the defendant is being tried the danger of prejudice is enhanced. The "inevitable tendency of such evidence is to raise a legally spurious presumption of guilt in the minds of the juror." State v. Lyle, 125 S.C. 406, 412, 118 S.E. 803, 807 (1923).

The prejudice of the juror's prior knowledge of appellant's other case and this case was again raised by defense counsel after the jury returned their guilty verdict. He noted the jury only deliberated for thirty (30) minutes and *that Juror #480 probably told the eleven other jurors of appellant's death sentence in the other case.* (R. 2487, l. 17 – 2488, l. 11). The trial court never instructed the juror not to tell the other jurors of appellant's prior death sentence. And these jurors were never qualified in respect to whether they could set aside knowledge of appellant's death sentence.

The Supreme Court of Illinois, People v. Walker, 91 Ill.2d 502, 517, 64 Ill.Dec. 531, 440 N.E.2d 83 (1982), dealt with the issue of the jury's knowledge of a prior death sentence as follows:

> The State argues that evidence of defendant's prior death sentence was properly before the jury since, in a capital case, the focus should be on both the character and record of the accused. (Lockett v. Ohio 438 U.S. 586, 98 S.Ct. 2954, 57 L.Ed.2d 973 (1978); Woodson v. North Carolina, 428 U.S. 280, 96 S.Ct. 2978, 49 L.Ed.2d 944 (1976); Ill. Rev. Stat. 1979, ch. 38, par 9-1(c).) This argument ignores the significant fact that the evidence in question was introduced

[7] Gamble was reversed on other grounds by State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991).

> during the first phase of the sentencing hearing. At this time the question for the jury to determine is whether, on the basis of a statutory aggravating factory, defendant is eligible to receive the death sentence; not whether, in light of his character or record, he should receive this penalty. That defendant received the death sentence for a prior murder has absolutely no relevance to the issue of whether he is eligible to receive that penalty for the instant offense.
>
> More importantly, as noted by defendant, introduction of this evidence may well have improperly influenced the jury's decision in two respects. In determining his eligibility for the death penalty, the jury was aware that another jury had previously resolved the identical issue adversely to defendant. If a juror was uncertain as to whether defendant was qualified for the death sentence, the knowledge that 12 other people determined he was could have swayed the juror's verdict in favor of death.
>
> Further, the jury's awareness of defendant's prior death sentence would diminish its sense of responsibility and mitigate the serious consequences of its decision. Assuming that defendant was already going to be executed, the jurors may consider their own decision considerably less significant than they otherwise would.
>
> In a capital case, a "high standard of procedural accuracy" is required in determining whether or not [the death] penalty will be imposed."

People v. Walker, 91 Ill.2d 502, 517, 64 Ill.Dec. 531, 440 N.E.2d 83 (1982).

The possibility that the jury may have found defendant eligible for this penalty on the basis of an irrelevant and prejudicial non-statutory aggravating factor should not be tolerated. People v. Davis, 97 Ill. 2d 1, 26-27, 452 N.E.2d 525, 537, 72 Ill. Dec. 272, 284 (1983).

In West v. State of Mississippi, 463 S.E.2d 1048, 1052-1053 (1985) the state supreme court held that it was reversible error for the solicitor to bring up during the guilt phase of the defendant's trial evidence of other murders which were not related to the murder for which the defendant was on trial. If the solicitor in the present case brought up

evidence of appellant's prior crimes and death sentence or during the guilt phase of this trial, it would have been grounds for a mistrial. There is no difference in seating a juror who knows this information from the outset. To believe the juror in this case did not convey this information to the other jurors, especially when she was not instructed otherwise, denies the frailty of human nature.

Juror # 480's knowledge of appellant's character evidence and prior bad acts along with his sentence of death was compounded by her willingness to sentence a defendant to death in every instance of an aggravating circumstance being presented. Due process under the Fourteenth Amendment and the Sixth Amendment to the United States Constitution demands that a defendant be given a fair trial by a panel of impartial, indifferent jurors. Witherspoon v. Illinois, 391 U.S. 510 (1968); Adams v. Texas, 448 U.S. 38 (1980); Wainwright v. Witt, 469 U.S. 412 (1985); Ross v. Oklahoma, 487 U.S. 81 (1988). It only takes one juror who believes a death sentence should be imposed in every instance to invalidate a death sentence. Ross v. Oklahoma, supra.

The juror's unequivocal response that she would vote for death in every case when an aggravating circumstance was coupled with murder disqualified her. In such an instance, the prospective juror may be challenged for cause. Morgan v. Illinois, 504 U.S. 719 (1992); State v. Bennett, 328 S.C. 251, 493 S.E.2d. 845 (1997). In Bennett, this Court remanded the case for resentencing when a juror said he would have to go with the majority. Critically, this Court noted language in Morgan that general questions of fairness and impartiality were insufficient to detect unqualified jurors. The trial court's attempt to rehabilitate Juror # 480's statement about imposing death was insufficient to cure the juror's unequivocal response. She was told she could only impose death if she found an aggravating

circumstance and that she could impose a life sentence. But she was not questioned or told of the role of mitigating circumstances- a necessary requirement of a capital sentencing system.

> "Any juror who states that he or she will automatically vote for the death penalty without regard to the mitigating evidence is announcing an intention not to follow the instructions to consider the mitigating evidence and to decide if it is sufficient to preclude imposition of the death sentence" Morgan v. Illinois, 504 U.S. at 738, 112 S.Ct. at 2234.

Jurek v. Texas, 428 U.S. 262, 271 (1976); Mills v. Maryland, 486 U.S. 367 (1988).

In Witherspoon v. Illinois, 391 U.S. 510 (1968) the United States Supreme Court held that prospective jurors could not be excused from jury service if they were opposed to the death penalty unless those jurors make it "unmistakably clear (1) that they would automatically vote against the imposition of capital punishment without regard to any evidence that might be developed at the trial of the case before them, or (2) that their attitude toward the death penalty would prevent them from making an impartial decision to the defendant's guilt." 391 U.S. at 522-23 n. 21 (emphasis in original). Later, in Wainwright v. Witt, 469 U.S. 412 (1985) the Court held that the test for excluding a prospective juror is whether that juror's attitude concerning capital punishment would "substantially impair" his or her ability to render a fair and impartial verdict.

In State v. Lindsey, 372 S.C. 185, 642 S.E.2d 557 (2007) this Court upheld the trial judge's decision to exclude a juror because the juror gave "equivocal views regarding the death penalty, his responses favoring a life sentence despite the facts of the case, and his noted hesitation when asked if he could vote for death..." 372 S.C. at 193, 642 S.E.2d at 561.

In appellant's case, Juror # 480 was unequivocal in stating she would impose death in every instance when an aggravating circumstance was present. The fact that the trial judge got her to say she would consider either a life sentence or death sentence does not mean she would impose a life sentence. She just turned out to be as equivocal as the juror in State v. Lindsey but in direction of favoring death instead of life. Her ability to render a fair and impartial verdict was substantially impaired. She should have been excluded as a juror based upon her knowledge of applicant's prior crimes and sentence of death and her views in favor of the death penalty. Seating this juror called into question the reliability of a sentence of death under the Sixth and Eight Amendment to the United States Constitution and the due process clause of the Fourteenth Amendment.

Finally to the extent the state may rely on State v. Atkins, 303 S.C. 214, 222, 399 S.E.2d 760, 764-765 (1990) and State v. Bell, 302 S.C. 18, 393 S.E.2d 364 (1990), for the proposition the judge did not abuse his discretion by seating Juror 480 where she knew of appellant's prior murder conviction and death sentence, appellant submits after Morgan v. Illinois, 504 U.S. 719 (1992) such a practice can no longer be permitted. The issue was only summarily addressed in passing in State v. Atkins, 303 S.C. 214, 222, 399 S.E.2d 760, 764-765 (1990) and State v. Bell, 302 S.C. 18, 23, 393 S.E.2d 364, 367 (1990) but it is now apparent following Morgan that appellant's right to an impartial jury includes the right to identify and have removed death prone jurors such as Juror # 480. Appellant's death sentence must be vacated.

4.

The Court abused its discretion by refusing to grant a change of venue where appellant's prior death penalty trial in Georgetown County, and the present murder, were the subject of very wide-spread publicity, since appellant was entitled to a fair trial by a jury that was not contaminated.

Relevant Facts

Before the instant (Turner) trial, appellant was tried, convicted, and sentenced to death for the Ling murder in Georgetown County in 2005. Prior to his arrest for the Ling and Turner murders, appellant was the subject of a nationwide manhunt and featured on Americas Most Wanted and countless other TV programs and newspaper articles. R. 1383, ll. 1-3; R. 468, ll. 5-16.[8]

During voir dire, the trial court judge asked each potential juror if they had been exposed to any pretrial publicity. Out of the 112 potential jurors questioned by the court, 56 knew about appellant through pretrial publicity.[9] Of the 45 qualified jurors, 27 knew

[8] All page numbers under this issue refer to the transcript dated November 13, 2009.

[9] R. 1308, l. 1; R. 1333, ll. 14-17; R. 1358, ll. 22-25; R. 1393, ll. 16-20; R. 1414, ll. 9-12; R. 1424, ll. 21-24; R. 1457, ll. 18-21; R. 1479, ll. 17-19; R. 1488, ll. 14-17; R. 1515, ll. 14-16; R. 1552, ll. 9-10; R. 1565, ll. 14-16; R. 1576, ll. 6-24; R. 1594, l. 25 - 1595, l. 2; R. 1608, ll. 3-10; R. 1629, ll. 17-18; R. 1656, ll. 6-10; R. 452, ll. 6-8; R. 468, ll. 5-16; R. 485, ll. 14-18; R. 500, ll. 10-16; R. 527, ll. 6-14; R. 551, ll. 12-19; R. 563, ll. 4-9; R. 586, ll. 9-18; R. 598, ll. 4-8; R. 615, ll. 13-16; R. 630, ll. 7-16; R. 651, l. 15 - 652, l. 5; R. 661, ll. 2-13; R. 702, l. 23 - 703, l. 4; R. 755, ll. 20-25; R. 775, ll. 2-11; R. 788, ll. 15-21; R. 801, l. 25 - 802, l. 5; R. 845, ll. 9-12; R. 854, ll. 10-14; R. 872, ll. 13-22; R. 880, ll. 1-6; R. 899, l. 25 - 900, l. 1; R. 920, ll. 5-10; R. 935, l. 23 - 936, l. 6; R. 963, ll. 4-6; R. 971, ll. 3-25; R. 1003, l. 17 - 1004, l. 12; R. 1027, ll. 22-23; R. 1036, ll. 17-24; R. 1048, ll. 17-25; R. 1062, l. 15 - 1063, l. 11; R. 1103, ll. 14-19; R. 1134, ll. 11-13; R. 1143, ll. 1-11; R. 1159, ll. 1-3; R. 1166, ll. 4-12; R. 1205, ll. 17-24; R. 1212, ll. 4-6.

about appellant's previous trial, conviction and death sentence.[10] Of the seated jurors, at least eight knew the appellant by name and one, Juror #480, as seen above, knew of appellant's previous murder conviction and sentence.[11]

In support of its change in venue motion at trial, defense counsel requested that the judge discharge the current panel and bring in jurors from another county or area "where they're not going to be so highly exposed to the newspaper articles and that kind of thing that the jurors in this area were exposed to." R. 1386, ll. 1-5. See S.C. Code §17-21-85; State v. Manning, 329 S.C. 1, 495 S.E.2d 191 (1997). The defense explained that if "you run Mr. Stanko's name through search engines . . . there are hundreds, literally hundreds, of hits that come up and articles that have been written and published about this particular prosecution – this particular Defendant." R. 1382, ll. 17-24.

Additionally, defense counsel argued that it is very rare that a nationwide manhunt would involve a defendant from Horry County and Georgetown County, but that occurred in this case. R. 1383, ll. 1-5. "[T]here were television news reports nationwide about . . . the ability of law enforcement and the efforts that were being undertaken at the time to capture him." R. 1383, ll. 6-9. "[T]here were considerable publicity outlets at the initial trial down in Georgetown, all of which covered not only the Georgetown incident, but also the Horry County incident." R. 1383, ll. 10-14.

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[10] R. 1308, l. 1; R. 1333, ll. 14-17; R. 1358, ll. 22-25; R. 1414, ll. 9-12; R. 1424, ll. 21-24; R. 1457, ll. 18-21; R. 1515, ll. 14-16; R. 1552, ll. 9-10; R. 1576, ll. 6-24; R. 1594, l. 25-1595, l. 2; R. 458, ll. 12-16; R. 500, ll. 10-16; R. 527, ll. 6-14; R. 563, ll. 4-9; R. 630, ll. 7-16; R. 755, ll. 20-25; R. 788, ll. 15-21; R. 801, L. 25 - 802, l. 5; R. 872, ll. 13-22; R. 880, ll. 1-6; R. 899, l. 25 - 900, l. 1; R. 935, ll. 23-25; R. 935, l. 23 - 936, l. 6; R. 1003, l. 17 - 1004, l. 12; R. 1103, ll. 14-19; R. 1143, ll. 1-11; R. 1166, ll. 4-12; R. 1212, ll. 4-6.

[11] R. 84, ll. 22-25; R. 102, l. 21; R. 168, l. 22; R. 264, ll. 11-15; R. 278, ll. 9-10; R. 402, l. 17- 403, l. 5; R. 437, l. 21- 438, l. 5; R. 635, ll. 16-20; R. 708, ll. 13-19.

Further, "given the number of people that actually showed up here – the number of people who demonstrated some knowledge – not only about the case, but about the death sentence that has been imposed, and that's still in effect against Mr. Stanko – I would submit, it's just not possible to me that [the] reliability requirement [mandated for death penalty cases] under the Eight Amendment [can been met] in this particular setting." R. 1384, ll. 12-19.

Defense counsel noted that he was forced to use all of his ten peremptory strikes to keep individuals off the jury who had prior knowledge of appellant and his previous conviction and sentence and, therefore, could not strike Juror # 480. Defense counsel explained that they would have also struck Juror 480 "because she has prior knowledge of the case and she did know about Mr. Stanko's death sentence." R. 1386, l. 6 – 1387, l. 15. "Someone who knows that this defendant is under a death sentence, they're just not going to be able to take as seriously the responsibilities in this case." R. 1388, ll. 7-10.

Defense counsel also reminded the judge that one of the prospective jurors who knew of Stanko's previous death sentence stated that she did not understand why this second trial was "not a waste of time." R. 1388, ll. 11-15. She did not understand why the court did not "go ahead and carry out the sentence that's been imposed." R. 1388, ll. 16-18.

Defense counsel argued this prospective juror demonstrated the lack of responsibility jurors who had prior knowledge of Stanko's previous death sentence would feel in this case. It's just "human nature." R. 1388, ll. 19-20. "Mr. Stanko's character is already at issue." R. 1389, l. 4.

Appellant also argued that the sheer number of potential jurors qualified by the court with specific knowledge of the prior case compelled appellant to use all of his preemptory challenges for reason alone. R. 1386, ll. 6-7; 1393, ll. 3-23; 1248, ll. 11-17. The defense was forced to strike individuals who were not death prone because of their prior knowledge of appellant's criminal history. "We had to actually strike jurors that we otherwise would've wanted to have on this jury because of their softness, so to speak, on the issue of the death penalty. But, we had felt like we had to strike them because of the prior knowledge of the case." R. 1393, ll. 3-23.

Defense counsel stated that the defense did not have the ability to exercise appellant's peremptory challenges in the manner that it normally would because of the widespread knowledge of appellant's prior murder in the venire. R. 1414, ll. 14-18. Appellant argued that this is "an infringement of his Sixth Amendment right to counsel and the right to be [able] to develop a strategy that's designed to defend someone in a capital setting." R. 1415, ll. 8-11.

Counsel further noted the defense was forced to seat a juror who was a victim of an armed robbery because the available peremptory challenges *had to be used* to remove jurors who had knowledge of appellant's crime spree. R. 1391, ll. 15-18. That prior knowledge of appellant's conviction or criminal history is the "[t]ype of knowledge that puts this defendant's character at issue to the point that there is nothing that could be done to rehabilitate him and to show that he's innocent. There's no presumption of innocence here, or any presumption with respect to his character." R. 1413, ll. 14-20.

In denying appellant's motion, the trial judge ruled that the voir dire was adequate and each potential juror had been thoroughly questioned by the court, the state, and the defense and said that they could be both fair and impartial. R. 1421, l. 18 – 1423, l. 14.

Discussion

A criminal defendant is entitled to an impartial jury, "free of prejudice, passion, excitement, and tyrannical power." Chambers v. Florida, 309 U.S. 227, 236-237 (1940); Ristaino v. Ross, 424 U.S. 589 (1976); State v. Gaskins, 284 S.C. 105, 326 S.E.2d 132 (1985). It is the trial judge's duty to ensure that the jury is fair and unbiased. State v. Gaskins, supra. The failure to ensure juror impartiality "violates even the minimal standards of due process." Irvin v. Dowd, 366 U.S. 717, 722 (1961).

The denial of a motion to change venue based on pretrial publicity may violate due process. Patton v. Yount, 467 U.S. 1025 (1984); Murphy v. Florida, 421 U.S. 794 (1975); Irvin v. Dowd, supra; Rideau v. Louisiana, 373 U.S. 723 (1963). To establish such a violation, the defendant must either demonstrate "identifiable prejudice" or circumstances that involved "such a probability that prejudice will result that that [the trial] is deemed inherently lacking in due process." Estes v. Texas, 381 U.S. 532, 542-543 (1965); Rideau, supra.

A motion to change venue is within the sound discretion of the trial court. State v. Manning, 329 S.C. 1, 495 S.E.2d 191 (1997); Sheppard v. State, 357 S.C. 646, 594 S.E.2d 462 (2004). There is no error if the jurors "had the ability to set aside any impressions or opinions" created by the publicity and to make their decision based on the evidence presented at trial. Sheppard; Manning. However, the jurors' own assurances that they are "equal to the task cannot be dispositive of the accused's rights." Murphy v.

Florida, supra, 421 U.S. at 800. In certain cases, exposure to inflammatory pretrial publicity creates such a presumption of prejudice "the jurors' claims that they can be impartial should not be believed." Patton v. Yount, supra, 476 U.S. at 1031

This Court has held that when jurors have been exposed to pretrial publicity, the trial court's denial of a change of venue is not reversible absent extraordinary circumstances. State v. Caldwell, 300 S.C. 494, 388 S.E.2d 816 (1990); Sheppard, supra; Manning, supra. Appellant's case is extraordinary because of the volume and saturation of the news coverage. Nearly one-half of the perspective jurors questioned by the court and the resulting petit jury had heard about the case through regular coverage, from every local news outlet, spanning years between the incident date until the morning of trial. The sheer pervasiveness of the coverage, is sufficient, in this case, to create a presumption of prejudice. See Irvin v. Dowd; Rideau v. Louisiana; Patton v. Yount, all supra.

This case was the most infamous and widely publicized case in Horry County that appellant is aware of, and if ever a case called for a change of venue it was this case. See, State v. Davis, 138 S.C. 532, 137 S.E.2d 139 (1927) (murder conviction reversed because of intense feelings against Davis following the murder in Fairfield County). As defense counsel argued he was forced to seat a juror who was a victim of an armed robbery because the available peremptory challenges *had to be used* to remove jurors who had knowledge of appellant's crime spree. R. 117, ll. 15-18. That prior knowledge of appellant's conviction or criminal history is the "[t]ype of knowledge that puts this defendant's character at issue to the point that there is nothing that could be done to rehabilitate him and to show that he's innocent. There's no presumption of innocence

here, or any presumption with respect to his character." R. 139, ll. 14-20. Appellant used all ten of his peremptory challenges to remove jurors who knew of the prior crime and even then had a juror deciding his fate that knew he had already been convicted of another murder and sentenced to death.

While appellant cannot pierce the privacy of the jury room, the juror was never instructed not to talk to other jurors about her knowledge of the prior trial. Further, as seen above, appellant had to accept jurors he otherwise would have struck because he had to remove potential jurors who were keenly aware of the prior murder. Appellant should now receive a new trial before an impartial tribunal.

5.

The trial court erred in excusing 85 perspective jurors during roll call because they were sixty-five or older given that such excusals violated the fair cross-section requirement of the Sixth Amendment by allowing the arbitrary removal of jurors on a basis unrelated to their ability to serve.

Relevant Facts

When the court and the state at trial sought to excuse a juror during roll call because she was sixty-five years of age or older the defense strongly objected:

> The Court: Norma Allen is over sixty-five. All right, 14-7-840, exemption from jury service, "No person is exempt from service as a juror in any court of the State except men and women sixty-five years of age or over." All right, what is in this affidavit, there's a statement that Ms. Allen is seventy years old. She suffered a stroke in June 2004, unable to drive. What is the State's position?
>
> Mr. Hembree: No objection to her being excused, Your Honor.
>
> The Court: The Defense position?
>
> Mr. Diggs: You Honor, with all due respect, we understand the juror's situation and are sympathetic to it, but our position has to be that, you know, sixty-five is not what sixty-five used to be, and we lose a lot of wisdom and experience in this situation, and we object to excusing anybody pursuant to that statute simply because it denies –
>
> The Court: So you're saying that 14-7-840 is unconstitutional?
>
> Mr. Diggs: Well, it is unconstitutional and it's just bad policy as well.

The Court: All right. I would respectfully decline to grant your motion to state that 14-7-840 is unconstitutional. 14-7-840 says, "No person is exempt from service as a juror in any court of this state except for men and women sixty-five years of age or over." The wording of that states that, therefore, if you read it, men and women over the age of sixty-five—I'm sorry—men and women sixty-five of age or over are exempt. It is clear, explicit. It is not—and I would respectfully decline to grant your motion to declare it unconstitutional. That person is excused.

Mr. Diggs: Your Honor, could—and, *of course, we based it on the fact that the segment—that segment of the population right now is growing, is significant in size more so than it was when that statute was written. Also, I'm asking for permission to apply that to every person so I don't—I mean every person over sixty-five so I don't have to make a motion every time that—*

The Court: If you have—no sir. If you have an objection to that particular person, you're going to need to raise it.

Mr. Diggs: All right, even if it's the same—

The Court: This person is—the date of birth, so it's clear, is January 25, 1939, age seventy, and further regarding this particular juror, there is information that the juror suffered a stroke in June of 2004.

Mr. Diggs: Well, and I understand that, and it may be that that might be a different ground for excusing her, but she didn't say in there that she was incapacitated because of the stroke. My wife has had a stroke, but she could certainly serve on a jury.

The Court: Very good. That juror is excused. Thank you very much.

Mr. Hembree: Your Honor, I think Mr. Diggs is trying to argue diminished age. I'm concerned about that.

The Court: All right. I do find 14-7-840 to be constitutional.

R. 38, l. 20 – 41, l. 7.

After this first excusal of a perspective juror because of her age, the court excused eighty-four other prospective jurors because they were sixty-five or older over the defense's objections.[12] The defense did not object to the excusal of other prospective jurors who were age sixty-five or older if they had a legitimate reason for seeking to be excused such as a medical condition, a previously planned trip, involvement in law

[12] Juror 14, R. 3170, l. 11 – 3171, l. 1; Juror 25, R. 3174, ll. 8-18; Juror 29, R. 3175, ll. 7-25; Juror 39, R. 3176, l. 25 – 3177, l. 11; Juror 52, R. 3180, l. 23 – 3181, l. 7; Juror 58, R. 3184, l. 18 – 3185, l. 3; Juror 62, R. 3185, l. 12 – 3186, l. 1; Juror 63, R. 3186, ll. 2-13; Juror 66, R. 3186, ll. 16-25; Juror 71, R. 3187, ll. 6-13; Juror 74, R. 3187, l. 20 – 3188, l. 2; Juror 82, R. 3189, l. 19 – 3190, l. 2; Juror 88, R. 3190, ll. 6-14; Juror 96, R. 3192, ll. 13-21; Juror 97, R. 3192, l. 22 – 3193, l. 6; Juror 141, R. 3202, ll. 3-11; Juror 147, R. 3203, ll. 9-14; Juror 152, R. 3204, ll. 6-13; Juror 160, R. 3204, l. 24 – 3205, l. 6; Juror 161; R. 3205, ll. 7-14; Juror 168, R. 3206, l. 15 – 3207, l. 1; Juror 169, R. 3207, ll. 2-11; Juror 173, R. 3208, ll. 2-9; Juror 178, R. 3210, ll. 9-15; Juror 194, R. 3211, ll. 14-21; Juror 196, R. 3211, l. 23 – 3211, l. 5; Juror 205, R. 3212, ll. 19-25; Juror 206, R. 3213, ll. 1-7; Juror 211, R. 3213, ll. 15-21; Juror 214, R. 3214, ll. 3-8; Juror 182, R. 3214, R. 3214, l. 21 – 3215, l. 1; Juror 189, R. 3215, ll. 14-21; Juror 225, R. 3217, ll. 14-19; Juror 232, R. 3218, ll. 9-19; Juror 235, R. 3219, ll. 12-17; Juror 244, R. 3222, l. 19 – 3223, l. 1; Juror 273, R. 3229, ll. 1-7; Juror 283, R. 3230, ll. 2-9; Juror 285, R. 3230, l. 22- 3231, l. 5; Juror 296, R. 3230, ll. 9-15; Juror 301, R. 3234, l. 22 – 3235, l. 4; Juror 306, R. 3235, l. 20 – 3236, l. 3; Juror 312, R. 3236, ll. 9-15; Juror 336, R. 3238, ll. 12-18; Juror 353, R. 3241, l. 24 – 3242, l. 5; Juror 355, R. 3242, ll. 15-22; Juror 356, R. 3242, ll. 15-22; Juror 365, R. 3244, l. 24 – 3245, l. 5; Juror 367, R. 3245, ll. 7-13; Juror 371, R. 3245, l. 24 – 3246, l. 5; Juror 395, R. 3250, ll. 4-11; Juror 404, R. 3252, ll. 5-12; Juror 434, R. 3257, ll. 7-14; Juror 435, R. 3257, ll. 15-23; Juror 447, R. 3260, ll. 16-24; Juror 465, R. 3263, ll. 17-23; Juror 476, R. 3268, l. 18 – 3269, l. 2; Juror 483, R. 3269, l. 21 – 3270, l. 3; Juror 520, R. 3274, ll. 12-19; Juror 525, R. 3275, ll. 17-23; Juror 526, R. 3275, l. 24 – 3276, l. 5; Juror 556, R. 3281, ll. 13-20; Juror 560, R. 3281, l. 22 – 3282, l. 4; Juror 591, R. 3286, l. 22 – 3287, l. 11; Juror 599, R. 3287, l. 21 – 3288, l. 2; Juror 623, R. 3291, l. 22 – 3292, l. 3; Juror 663, R. 3296, l. 20 – 3297, l. 2; Juror 665, R. 3298, ll. 4-10; Juror 666, R. 3297, ll. 11-18; Juror 674, R. 3298, ll. 7-17; Juror 675, R. 3298, ll. 15-22; Juror 681, R. 3300, ll. 3-9. Juror 7, R. 3309, ll. 13-23; Juror 61, R. 3311, l. 24 – 3312, l. 5; Juror 304, R. 3324, l. 24 – 3325, l. 5; Juror 436, R. 3333, ll. 2-9; Juror 551, R. 3340, ll. 4-11; Juror 584, R. 3342, ll. 16-24; Juror 697, R. 3352, ll. 12-19. Juror 49, R. 3389, ll. 10-20; Juror 50, R. 3389, l. 21 – 3390, l. 7; Juror 151, R. 3391, ll. 13-22; Juror 532, R. 3402, l. 18 – 3403, l. 2; Juror 697, R. 3411, ll. 12-19.

enforcement, being unable to fill out the questionnaire, or having to care for a family member.[13] There were a total of eighteen of these prospective jurors.

Only two prospective jurors, #38 and #510, waived their right to be exempted from serving on the jury because of their age. R. 531, l. 16 – 532, l. 4; R. 494, l. 17 – 495, l. 5. However, prospective Juror #38 was found not qualified to serve by the court for other reasons. R. 535, ll. 13-20.

While Juror #510 was found qualified by the court, she was later struck by defense counsel during jury selection because of her knowledge about Stanko's previous murder trial. R. 511, ll. 12-24. Another prospective juror over sixty-five, Juror #90, came in for jury qualification but requested to be exempted from service because the trial was close to the Thanksgiving holiday, not because of her age. R. 556, ll. 1-24. This perspective juror asked to be called at a later date recognizing her ability to serve on a jury. R. 557, ll. 5-6.

South Carolina Code Section 14-7-840

The above code section reads:

> No person is exempt from service as a juror in any court of this State except men and women sixty-five years of age or over. Notaries public are not considered state officers and are not exempt under this section. A person exempt under this section *may be excused upon telephone confirmation of date of birth and age to the clerk of court or the chief magistrate.* The jury commissioners shall not excuse or

[13] Juror 174, R. 3208, ll. 10-17; Juror 394, R. 3249, l. 20 – 3250, l. 3; Juror 445, R. 3260, ll. 7-14; Juror 175, R. 3268, ll. 10-17; Juror 523, R. 3275, ll. 7-15; Juror 527, R. 3276, ll. 6-16; Juror 541, R. 3279, ll. 8-15; Juror 569, R. 3282, l. 22 – 3283, l. 5; Juror 605, R. 3288, ll. 16-23; Juror 613, R. 3289, l. 17 – 3290, l. 2; Juror 614, R. 3290, ll. 3-11; Juror 630, R. 3292, l. 23 – 3293, l. 9; Juror 646, R. 3294, l. 21 – 3295, l. 3; Juror 653, R. 3296, ll. 7-14; Juror 678, R. 3299, ll. 3-11; Juror 679, R. 3299, ll. 12-19; Juror 680, R. 3299, l. 20 – 3300, l. 2; Juror 687, R. 3300, ll. 12-23.

> disqualify a juror under this section. The clerk of court shall maintain a list of persons excused by the court and the reasons the juror was determined to be excused.

(emphasis added). It is clear that under this section a prospective juror age sixty-five or older may, when summoned, request an exemption. The section does not automatically disqualify such jurors, and if they do not seek an exemption, the court may later find them qualified to serve on a jury. Therefore, the basis of the exemption of such citizens as jurors is arbitrary and unrelated to their ability to serve. Their age alone is the only requirement that needs to be satisfied in order for them to be exempted as jurors in this state.

Discussion

The United States Supreme Court long ago recognized that "[it] is part of the established tradition in the use of juries as instruments of public justice that the jury be a body truly representative of the community." Taylor v. Louisiana, 419 U.S. 522, 527 (1975), citing Smith v. Texas, 311 U.S. 128, 130 (1940). The Court has further stated that "The selection of a petit jury from a representative cross section of the community is an essential component of the Sixth Amendment right to a jury trial." Taylor v. Louisiana, 419 U.S. at 528.

The Court noted, however, that "The States are free to grant exemptions from jury service to individuals in case of special hardship or incapacity and to those engaged in particular occupations the uninterrupted performance of which is critical to the community's welfare." Taylor v. Louisiana, 419 U.S. at 534 *citing* Rawlins v. Georgia, 201 U.S. 638 (1906). Such exemptions, the Court stated, do not pose substantial threats that the remaining pool of jurors will not be representative of the community. Id. This is

something defense counsel acknowledged at trial when it declined to object to perspective jurors sixty-five or older who had a legitimate reason for seeking an excusal.

In order to establish a prima facie violation of the fair-cross-section requirement, the appellant must show (1) that the group alleged to be excluded is a distinctive group in the community; (2) that the representation of this group in the venire from which the juries are selected is not fair and reasonable in relation to the number of such persons in the community; and (3) that this underrepresentation is due to systematic exclusion of the group in the jury-selection process. Duren v. Missouri, 439 U.S. 357, 364 (1979).

Citizens sixty-five or older do make up a distinctive group in the community. The most compelling fact is that clearly a community made up of entirely of citizens under the age of sixty-five would be significantly different than a community comprised of all citizens. People sixty-five or older frequently share the same generational values and experiences. They have been alive through the same major world and national events and cultural changes. They are often more involved in their community and bring invaluable insight and wisdom to the jury simply based on their maturity. In addition, older citizens are often more rational and sensible as a result of their age. Therefore, such exemption dilutes the quality of community judgment represented by the jury in criminal trials. See Taylor v. Louisiana, 419 U.S. at 535.

The representation of citizens sixty-five or older in the venire from which the jury was selected in this case was not fair and reasonable in relation to the number of such persons in the community. This Court can take judicial notice that, according to the U.S. Census Bureau, the population of citizens sixty-five or older in Horry County in 2009, the year the trial took place, was 18.0 percent. U.S. Census Bureau, State and County

QuickFacts, http://quickfacts.census.gov/qfd/states/45/45051.html (Last visited July 26, 2011). This is a significant portion of the county's population. However, *only one of the qualified jurors was sixty-five or older*, almost completely eliminating the representation of 18.0 percent of the community's population in the venire from which the jury was ultimately selected.

This elimination of such a significant portion of the county's population is both unfair and unreasonable. It is untenable to advocate, as defense counsel argued, that in this day and age with the improvements in the fields of health and medical care, that all citizens age sixty-five and older can be automatically exempt over the telephone because of the fact that are simply sixty-five years old or older.

A large majority of sixty-five year old seniors today are healthy both physically and mentally and have the capacity to competently serve on a jury. Therefore, it is unreasonable to systematically exempt such citizens.

This argument is analogous to Taylor v. Louisiana. 419 U.S. at 534 where the Court held that: "It is untenable to suggest these days that it would be a special hardship for each and every woman to perform jury service or that society cannot spare any women from their present duties." Just as a change in societal views of the role of women and their occupations made the exclusion of women from jury service unreasonable in the 1970s, the improvement of medical care and the overall health of our nation's seniors has made the exclusion of citizen's sixty-five or older unreasonable today. A significant amount of such citizens are wholly qualified to serve on a jury.

The third element is easily satisfied in this case. It is clear that the underrepresentation of citizens sixty-five or older in the venire from which the jury was

ultimately selected is from their systematic exemption during roll call. The percentage of the original 700 prospective jurors who were identified by the court as age sixty-five or older was approximately 15 percent, a percentage that better reflects the percentage of such citizens in Horry County in 2009.

When excluding only the prospective jurors sixty-five or older who had a valid reason for excusal, the percentage merely drops to 12.5 percent, a percentage that is still clearly more reflective of the 18.0 percent found in the community than 0.02 percent, the percentage of citizens sixty-five or older that was ultimately in the qualified venire from which the jury was selected.

State v. Rogers, 355 N.C. 420, 449, 562 S.E.2d 859, 877-878 (2002) involved a similar challenge but on an equal protection basis. As the North Carolina Supreme Court previously noted, "The adverse effects of growing old do not strike all equally or at the same time, and it is only sensible to allow trial judges to consider the individual when a prospective juror seeks to be excused because of his or her age." Rogers, 355 N.C. 420, 449, 562 S.E.2d 859, 877-878 (2002). Because Section 14-7-840 allows for the arbitrary excusal of perspective jurors sixty-five or older when requested without first considering the individual's justifiable reasons for seeking to be exempt, such as a medical condition, it fails to satisfy the rational basis test. As previously noted, a significant number of prospective jurors sixty-five and older are wholly qualified and both physically and mentally competent to serve on a jury. Today, with the advancement of medical care and the overall health of U.S. citizens, it should be expected that such prospective jurors serve unless other grounds for an exemption or disqualification is provided. Therefore, it is irrational to automatically exempt perspective jurors sixty-five or older upon request.

Our Supreme Court should follow the North Carolina Supreme Court in its ruling that the excusal of "prospective jurors present in the courtroom who are over the age of sixty-five must reflect a genuine exercise of judicial discretion." Rogers, 355 N.C. at 448, 562 S.E.2d at 877.

Based on these arguments, the trial court erred in its systematic exclusion of perspective jurors sixty-five or older in violation of the Sixth and Fourteenth Amendments, and appellant should, therefore, be granted a new trial.

6.

The court erred by ruling that appellant's execution as a brain damaged and mentally ill man would not violate the Eighth Amendment to the United States Constitution, since the evolving standards of decency should now shield an appellant with significant diminished capacity, as well as the mentally retarded from the death penalty.

Mental illness has long been statutorily recognized as a mitigating circumstance, just as mental retardation was prior to Atkins v. Virginia, 536 U.S. 304 (2002). See S.C. Code §16-3—20(C)(b)(2)(6) & (7). Likewise, the youth of the offender was similarly a statutory mitigating circumstance. See S.C. Code §16-3—20(C)(b) (7).

Mental illness or brain damage that causes a defendant to be unable to exercise judgment and control his impulses would surely also be a non-statutory mitigating circumstance. However, just as the mentally retarded and minors who commit murder can no longer be executed under the Eighth Amendments "evolving standards of decency," the same conclusion should be reached for a brain damaged defendant such as appellant whose brain damage or brain defects severely lessen his ability to control his impulses. Roper v. Simmons, 543 U.S. 551 (2005); Atkins v. Virginia, supra.

At the October 8, 2009 at a pre-trial hearing defense counsel moved to declare S.C. Code §16-3-20 unconstitutional as it applied to appellant who had a structural and functional brain defects. "We've got experts in this case both who will testify one as to the structure and one as to the function. It's been measured scientifically." R. 3082, ll. 7-19.

Defense counsel told the judge that the defense would offer scientific evidence comparing appellant's brain to:

> [P]eople with good mental health, a big database which has been put together to show . . . the healthy brain . . . the mentally healthy individual should look like in terms of structure and how it should function under certain situations. What this case is going to show is that Mr. Stanko has this condition of hypofrontality. Its not something he chooses to have. Its something that he just has. We can speculate a little bit about how it got there and what causes it, and there will be evidence about that, but the fact of the matter is its something that exists in this case, again just like a missing limb might be existing from someone born with an obvious physical defect. We can see that. We are learning how to see those types of defects when they exist inside the brain, and that's what we've got in this case.

R. 3082, l. 16- 60, l. 11.

Defense counsel noted that the current status of the law was that appellant could be executed notwithstanding his brain defects. Counsel reminded the judge that in the United States we no longer execute the mentally retarded or minors: "We don't execute them because we know through maybe more obvious observable evidence that there's a problem with these people; their brains aren't working properly, and so we're going to cut them some slack and we, as an evolving society, we don't execute these people, because the Eighth Amendment would protect them. We are better than that." R. 3083, ll. 12-23.

Defense counsel argued that, when it came to a bar on the death penalty, that appellant's brain defects should not be treated any differently than mental retardation or young people whose brains had not yet fully developed: "If someone's brain is not

functioning properly because of their young age or because of mental retardation, then it's a proper thing that we do not execute, my argument is that in this case the same rationale should apply. We shouldn't execute people who have brain defects and that's what we have in this case..." R. 3084, ll. 4-24.

Solicitor Hembree argued: "This is not a condition that has been recognized by our Supreme Court like mental retardation or like that of a juvenile." The solicitor said that if there was evidence appellant had the requisite brain defects "the appropriate place and time for that issue to be argued and determined would be at the appellate level and we'd request that this issue—I mean excuse me, this motion be denied at this time." R. 3086, l. 5- 3087, l. 4. The judge denied the motion. R. 3087, ll. 5-23.

Discussion

In Winick, The Supreme Court's Evolving Death Penalty Jurisprudence: Severe Mental Illness as the Next Frontier, 50 B.C. L. Rev. 785, 785 (May 2009), Professor Bruce Winick wrote:

> The U.S. Supreme Court's recent death penalty jurisprudence displays the Court's willingness to invalidate the death penalty for certain offenses or classes of offenders, including those with mental retardation and those who were under eighteen at the time of the offense. The Court has noted that the death penalty in these cases constitutes a disproportionate punishment because it fails to adequately serve the two primary goals of the Cruel and Unusual Punishments Clause: retribution and deterrence. Because the cognitive and volitional impairments caused by severe mental illness result in a parallel diminution in culpability and deferability, severe mental illness is an appropriate next frontier at which to apply the Court's emerging concept of proportionality. Social attitudes have only recently begun to shift toward opposing the death penalty for those with severe mental illness at the time of the offense. Nonetheless, the Court's recent death penalty

> cases teach that the Court may independently determine that execution of these offenders is a disproportionate punishment if it concludes that executing such offenders does not adequately serve the goals of retribution and deterrence.

In Roper v. Simmons, supra the Court concluded the death penalty is a disproportionate punishment for juveniles, and hence cruel and unusual punishment. The Court noted that juveniles are more susceptible to immature and irresponsible behavior, so their conduct is not as morally reprehensible as that of adults because they are still developing mentally and as human beings. Second, juveniles are more vulnerable to the influence of others and lack control over their immediate surroundings. Finally, since a juvenile's personality and sense of identity are still developing, it makes even the commission of a heinous crime insufficient evidence of an "irretrievably depraved behavior" or person.

Mentally retarded individuals also lack the capacity to appreciate the full consequences of their behavior. In Atkins v. Virginia, the Court therefore found a "per se" finding of diminished responsibility that exempts mentally retarded individuals from the death penalty.

Defense counsel here correctly argued that appellant's brain defects, which were discussed at length above in issue one, exempted him from the death penalty under the Eighth Amendment's "evolving sense of decency" standard. As seen, appellant's brain defects were attributed to his mother's complicated pregnancy when appellant was born in Guantanamo Bay, Cuba and he received reduced oxygen to his brain. There was also evidence that appellant was hit in the back of the head when he was about sixteen-years-

old with a beer bottle which damaged his frontal lobes. There was testimony appellant's frontal lobes could not repair themselves. R. 1543, l. 10- 1544, l. 1.

Dr. Ruben Gur also testified that appellant's damaged frontal lobes diminished his ability to distinguish between real and perceived threats. Dr. Gur also opined that appellant's brain abnormalities were extreme. R. 1653, l. 6- 1663, l. 3. Dr. Wu analogized appellant's brain defects to a computer in a Lexus or Toyota going "haywire" where you have "an out of control brain..." R. 1732, l. 13- 1733, l. 13.

In Gregg v. Georgia, 428 U.S. 153, 173 (1976), the plurality of the Court fashioned a three pronged analysis for determining whether a punishment constitutes cruel and unusual punishment under the Eighth Amendment. The first question is whether the punishment conforms to contemporary standards of decency. The second is whether the punishment is disproportionate to the offense, and the third is whether the punishment goes beyond what is necessary to accomplish any legitimate penological objective.

As stated, our state's death penalty statute considers mental or emotional distress, capacity to appreciate, and age and mentality of the defendant as mitigating circumstances. We are not a weighing state and our legislature has deemed that any one juror can prevent a defendant from being sentenced to death. It is elementary that a jury may sentence a defendant to life imprisonment for "any reason or no reason at all, simply as an act of mercy." Rosemond v. Catoe, 383 S.C. 320, 680 S.E.2d 5, 10 (2009).

South Carolina juries, obviously depending somewhat on geography, do not often return death sentences for defendants where there is strong evidence they are severely mentally ill. Further, such death sentences are not likely to be carried out: *e.g.* Fred

Singleton, Donney Council, Jamie Wilson. Moreover, often such mental illness are not wholly appreciated until the post-conviction relief stage. There is reason to believe that South Carolinians do not favor the execution of the mentally ill or those who are brain damaged for circumstances beyond their control because such punishment for conduct beyond their control is considered disproportionate.

As to penological objectives -- retribution and deterrence – the execution of the brain damaged and the severely mentally ill does not contribute to either goal. People who commit crimes because they are brain damaged or severely mentally ill are not going to be deterred by the fear of execution since they are unable to control their impulses in the manner a normal person is able to do so. Further, to execute the brain damaged and severely mentally ill therefore also constitutes the unnecessary infliction of pain and suffering that goes beyond any legitimate consideration of retribution.

Executing this brain damaged appellant, where there is strong evidence his brain defects prevented him from controlling his impulses would violate our contemporary standards of decency and therefore the Eighth Amendment to the United States Constitution.

Other jurisdictions

While Florida's proportionality analysis differs from this Court's in some respects, Florida has held that evidence of the respective defendant's severe mental illness made the death sentence a disproportionate punishment. See Offord v. State, 959 So.2d 187 (Fla. 2007), Crook v. State, 908 So.2d 350 (Fla. 2005), Green v. State, 975 So.2d 1081 (Fla. 2008).

In State v. Nelson, 173 N.J. 417, 483, 803 A.2d 1, 41 (2002) where the defendant's sentence was vacated on other grounds, the concurring Justice Zazzali, joined by Justice Long wrote that there were additional and compelling justifications for not executing the defendant: "I agree with defendant that her execution for crimes that are inextricably bound to her mental illness violates our State Constitution. The State's legitimate penological interests that purportedly are served by the death penalty are unconstitutionally diminished if the State executes such a mentally ill and psychologically disturbed person. In defendant's case, it is constitutionally inadequate for a jury to consider her severe mental illness as merely a mitigating factor to be weighed among other aggravating and mitigating factors."

In Corcoran v. State, 774 N.E.2d 495, 502-03 (Ind. 2002), Justice Rucker wrote in dissent:

"[I] do not believe a sentence of death is appropriate for a person suffering a severe mental illness. Recently the Supreme Court held that the executions of mentally retarded criminals are 'cruel and unusual punishments' prohibited by the Eighth Amendment of the United States Constitution. Atkins v. Virginia, 536 U.S. 304 (2002). There has been no argument in this case that Corcoran is mentally retarded. However, the underlying rationale for prohibiting executions of the mentally retarded is just as compelling for prohibiting executions of the seriously mentally ill, namely evolving standards of decency. In that regard I associate myself with the dissenting opinion of Justice Pfeifer of the Ohio Supreme Court who noted:

> "Mental illness is a medical disease. Every year we learn more about it and the way it manifests itself in the mind of

> the sufferer. At this time, we do not and cannot know what is going on in the mind of a person with mental illness. As a society, we have always treated those with mental illness differently from those without. In the interest of human dignity, we must continue to do so.... I believe that executing a convict with a severe mental illness is a cruel and unusual punishment."

Ohio v. Scott, 92 Ohio St.3d 1, 748 N.E.2d 11, 20 (2001) (Pfeifer, J., dissenting).

Appellant strongly and respectfully submits that just as mentally retarded people and juveniles can no suffer the death penalty for the crime of murder, so to appellant, with his extreme brain defects should not, under our "evolving sense of decency," be eligible for execution under the Eighth Amendment to the United States Constitution.

CONCLUSION

By reason of the foregoing argument, appellant's convictions should be reversed and this case remanded to the Horry County Court of General Sessions for a new trial. In the alternative, appellant should be granted a new sentencing trial.

Respectfully submitted,

BY: _____
Robert M. Dudek
Chief Appellate Defender

Robert M. Pachak
Appellate Defender
ATTORNEYS FOR APPELLANT

This 22nd day of May, 2012

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 22nd, 2012

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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 22nd day of May, 2012.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 22nd day of May, 2011.

Lauren E. Cuse (L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014.

COPY

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Steven H. John, Circuit Court Judge

THE STATE,

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MAY 22 2012
SC OFFICE OF
APPELLATE DEFENSE

V.

STEPHEN CHRISTOPHER STANKO,

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FINAL REPLY BRIEF OF APPELLANT

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ARGUMENT IN REPLY

2.

The state's argument that the issue of the inadequate, impractical, erroneous waiver of defense counsel Diggs being appointed to represent appellant again during his second capital trial, while a PCR alleging Diggs was ineffective, a professional disgrace, in appellant's first capital trial was pending is procedurally barred because appellant wanted Diggs to represent him, and Diggs wanted to remain on the case, misses the entire point of the legal issue.

Appellant argued in his brief that the trial court, Judge John, erred by accepting a truncated and inadequate waiver of his attorney's [Bill Diggs] conflict of interest in this case where defense counsel represented appellant in his prior trial at which appellant was sentenced to death, and where defense counsel was the subject of a pending accusation of ineffective assistance of counsel from that first trial at the time of appellant's second death penalty trial. Appellant argued the court's direction to defense counsel and appellant not to discuss the prior death penalty case was impractical and erroneous where the murders were committed closely together, and the insanity defenses were identical at both trials and they were therefore inextricably entwined. Appellant's Brief at 20-29.

The state argues "Stanko made no objection to the appointment of Diggs as counsel in this case, and in fact requested that Diggs be his attorney and requested several times that he not be removed. He cannot now argue the lower court erred where Judge Baxley and Judge John gave him exactly what he wanted and insisted on." The State's Brief at 18.

The state further argues that: "Diggs also informed the Court that he saw no conflict in representing Stanko in the Horry County capital trial. Diggs indicated the defense in this

capital case was *going to be the same* as the Georgetown capital trial; it was a credible defense; he was thoroughly familiar with the case, and significant savings in time and resources would be saved if he represented Stanko again, i.e. another attorney would not have to get up to speed on the facts and the defense. Diggs informed the Court that some continuity needed to be maintained with the previous defense team, and it only made sense that he be appointed since he was in the charge of the medical testimony previously presented. Diggs informed the Court he had a good relationship with Stanko." Respondent's brief at 19-20.

The defense in fact sank like a stone and the jury convicted Stanko of murder in thirty minutes after hearing eight defense witnesses and four hundred forty-eight transcript pages of the defense case. R. 2481, l. 6 – 2482, l. 25. Further, defense counsel was paid by the state for his representation.

This issue is not procedurally barred. In short the fact counsel Diggs wanted to stay on the case and that appellant asked that Diggs represent him is inconsequential to any analysis of this issue. As argued in appellant's brief the trial judge at the March 4, 2009 pre-trial hearing, sua sponte, noted he was aware appellant had filed a post-conviction action alleging trial counsel Diggs provided ineffective assistance of counsel during the first trial. R. 2957, ll. 17-25. This Court will recall, the judge unprompted stated it appeared at "least questionable, if not inconsistent, that Mr. Diggs remain as trial counsel in this particular case when a post-conviction relief has been filed against him by Mr. Stanko." R. 2958, ll. 1-6; Appellant's Brief at 20.

While Diggs, as noted in the state's brief, pushed the "continuity" of the prior death penalty trial with appellant, the judge here ultimately told him "there are boundaries

obviously that you cannot communicate with Mr. Stanko about that . . . . there are issues and things you may not discuss with him." R. 2958, ll. 1-6; Appellant's brief at 20. This is hardly the basis for an attorney-client relationship in the defense of capital murder, where the cases were, as noted, inextricably entwined, in particular as to Stanko's mental state. Where the defense was again insanity and it had already failed one time in a death penalty case that is hardly a moving argument in support of the status quo. See, SC Code 1976, § 20-7-110(2); See also, Von Moltke v. Gillies, 332 U.S. 708, 725 (1948); U.S. v. Wheat, 813 F.2d 1399 (Cal. 1987). "The effective assistance of counsel is a necessary requisite of due process of law." Rogers v. State, 261 S.C. 288, 290, 199 S.E.2d 761 (1973), citing, State v. Cowart, 251 S.C. 360, 162 S.E.2d 535 (1968). Further, an attorney should not represent a defendant where counsel's adequacy is in question. See, People v. Norris, 46 Ill.App.3d 536, 541, 361 N.E.2d 105, 110 (Ill. App. 1977).

Regardless of Diggs wanting to remain as counsel on the second trial, and the state's position that appellant wanted Diggs to remain as counsel, the issue before this Court is the inadequate, impractical and erroneous waiver in understanding appellant's right to conflict free counsel under the boundaries the judge set forth in this case. See Brief of Appellant at 24-29.

As stated in appellant's brief the appellant here essentially told the judge he wanted to keep Diggs, despite the PCR allegations against him, because he believed any other attorney besides Diggs may not believe in his defense – which had failed the first time during the Ling trial. R. 2963, ll. 4-10. The state's allegation that this issue is procedurally barred misses the entire thrust of the issue.

Further, the state writes that: "Stanko further clarified that he was not waiving any issues he raised in the Georgetown PCR, but that did not mean he did not have one hundred percent trust in the upcoming Horry County trial. The state also argued that the solicitor offered an exhibit stating that the Attorney General's office would have no contact with Mr. Diggs regarding the Georgetown County PCR case while Diggs was preparing for and trying the Horry County death penalty case." Respondent's brief at 25. Thus, the state's apparent position is the fact that the state *would later in fact, when the time came, defend Diggs* against PCR claims where he offered the same losing defense during both trials made whatever happened during this second trial alright. Merely deferring this huge conflict does not resolve it. The state concludes: "There is a difference between not discussing the PCR case, in which Stanko was represented by collateral counsel, and discussing the prior criminal trial." Respondent's brief at 25; p. 27.

It is important to note that in State v. Binney, 384 S.C. 539, 544, 683 S.E.2d 478, 480 (2009), this Court held that the language of S.C. Code §17-27-130 (1996) was plain and unambiguous and that the "waiver of the attorney client privilege shall be deemed automatic upon the filing of the application alleging ineffective assistance of counsel . . ." As to Stanko wanting Diggs, it is elementary that neither Stanko nor any other indigent criminal defendant is entitled to appointed counsel of his choice. That is particularly true given the highly unusual facts of this cases. Morris v. Slappy, 461 U.S. 1, 13-14 (1983).

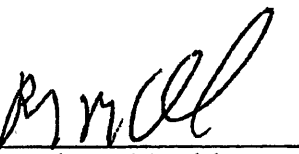
The state simply does not seem to grasp the fact that the defense - - insanity - - was the same as both the Ling and Turner murders, and appellant and Diggs were ordered by the trial court not to discuss the inadequacies they both may have perceived from the trial of the first death penalty case.

The truncated waiver here was inadequate to inform and protect appellant from the judge's unworkable instruction to appellant and counsel Diggs not to discuss the prior death penalty case. Not only was this was an unworkable instruction, but the promise to possibly revisit the issue later, as appellant has argued, was unprecedented if not also, respectfully, bizarre. Appellant's Brief at 29.

CONCLUSION

By reason of the foregoing argument and all of the arguments contained in appellant's initial brief, appellant's convictions and death sentence should be reversed and this case remanded to the Horry County Court of General Sessions for a new trial.

Respectfully submitted,



BY: Robert M. Dudek
Chief Appellate Defender

Robert M. Pachak
Appellate Defender

ATTORNEYS FOR APPELLANT.

This 22nd day of May, 2012.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Reply Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of May, 2012.

BY: Robert M. Dudek
Chief Appellate Defender

Robert M. Pachak
Appellate Defender

ATTORNEYS FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 22nd day of May, 2012.

(L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014.

COPY

RECEIVED
MAR 14 2013
S.C. Supreme Court

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

Appellate Case No. 2010-154746

Appeal from Horry County

Steven H. John, Circuit Court Judge

MAR 14 2013

Opinion No. 27224

PETITION FOR REHEARING

Petitioner seeks rehearing pursuant to Rule 221(a), SCACR because this Court may have overlooked the fact that insanity by its very definition precludes an ability to act with malice aforethought. Further, there is not anyway for this Court, or counsel for that matter, to know what happened during jury deliberations. This court correctly held: "It is unclear what this Court could have included in Belcher to better indicate to the trial court the impropriety of an instruction that malice could be inferred from the use of a deadly weapon in this case. Appellant certainly presented evidence which could have reduced, mitigated, or excused victim's murder. The language of Belcher is clear, that when this type of evidence is submitted, an instruction regarding

inferred malice from the use of a deadly weapon is improper." State v. Stephen Christopher Stanko, Op. No. 27224, Shearouse's Adv. Sh. #9 at p. 84 (filed February 27, 2013).

Appellant respectfully submits that this court should reconsider its harmless error analysis not only because this Court and the parties will never know how jury deliberations in this case proceeded, but also as a matter of logic. There was evidence that appellant shot the decedent with a gun -- a deadly weapon. The Court's jury instruction in this case allowed it to infer malice aforethought from the use of that deadly weapon, without anything further. Once the jury found that appellant acted with malice, any consideration of insanity was not warranted. If appellant acted with malice aforethought, he straightforwardly was not entitled to a verdict of not guilty by reason of insanity. This court wrote:

> In the instant case, the trial court issued a jury instruction consistent with evidence presented by both the State and Appellant. The trial court charged the jury that they could return verdicts of not guilty, not guilty by reason of insanity, guilty but mentally ill, and guilty. Therefore, if the jury believed that Appellant could not distinguish moral or legal right from wrong, they could have found him not guilty by reason of insanity. In addition, the jury could have found that Appellant's mental disease or defect prevented him from conforming his conduct to the requirements of the law, regardless of whether he could make the necessary moral or legal distinctions. Nothing in the trial court's inferred malice charge would have prevented the jury from reaching either of these conclusions.
>
> The trial court instructed the jury that inferred malice may arise when the "deed is done with a deadly weapon." The trial court also stated that malice "can be inferred from conduct showing total disregard for human life." Appellant only contests the "deadly weapon" language. However, if the jury rejected Appellant's insanity defense, **which it did,** the jury **could** also find that Appellant's conduct showed a total disregard for human life. **Thus, Appellant could not have** suffered prejudice from any separate inference that his use of a deadly weapon also gave rise to an inference of malice.
>
> Therefore, although the trial court's charge in this case failed to comply with Belcher, this does not constitute reversible error."

(emphasis added). Shearouse's Adv. Sh. # 9 at pp. 85-86 (February 27, 2013).

Again, we will never know if the jury reached discussion on an insanity verdict. The jury instruction permitted it, in effect to reject appellant's insanity defense when it inferred malice from his use of a deadly weapon without further deliberation or analysis. Mere speculation that the jury **could have** inferred malice "from conduct showing total disregard for human life," therefore "appellant **could not have** suffered prejudice from any separate inference" simply does not follow, respectfully, as a matter of logic. The jury was out for thirty minutes, R. 2481, ll. 19-22, despite contradictory expert testimony on appellant's mens rea vel non, that was hundreds of pages in the Record. It was free, to reject all of this by a finding of malice from the use of a deadly weapon for as Belcher and the law clearly teach – the mens rea of malice is absent from one who is legally insane.

Furthermore, this Court cites Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000), holding the judge did not abuse its discretion in giving the charge here. This is erroneous as an error of law, as found here, constitutes an abuse of discretion.

Rehearing should be granted.

Conflict issue based on PCR allegations of ineffective assistance of counsel

Appellant also respectfully submits that this court should grant rehearing to reconsider its analysis of the conflict of interest issue involving appellant's allegations of ineffective assistance of counsel against trial counsel Diggs involving the first capital trial where appellant was sentenced to death. These PCR allegations were pending against trial counsel Diggs prior to and during this trial. This Court held that this issue was not preserved for appellate review because neither appellant nor defense counsel Diggs objected. This Court wrote: "Appellant did not object to the appointment of Diggs as counsel, but instead emphatically requested that Diggs continue to represent him ...

Appellant never raised a single objection. Thus, he avoided the critical first step of preservation: convincing the trial court that it ruled incorrectly. Appellant cannot now argue on direct appeal the trial court erred in acquiescing to his express and informed desire." State v. Stephen Christopher Stanko, Op. No. 27224, Shearouse's Adv. Sh. No. 9, at p. 90 (February 27, 2013).

There are certain conflicts that cannot be waived, even with the consent of the attorney and client, because the interests of the criminal justice system in ensuring a fair result override the wishes of the parties. For example, if a client charged with murder desired to be sentenced to death (which was not the case here), and he wanted an incompetent attorney, who was his friend, to make a considerable fee while not putting any of the State's case to an adversarial setting, appellant is confident this Court would find a trial court could not approve of such an attorney–client relationship proceeding to trial despite the fact that neither party objected. See United States v. Wheat, 486 U.S. 153, 159 (1988) ("the essential aim of the Amendment is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers.").

The same could be true of multiple defendant representation where neither client nor attorney objected, and both defendants enthusiastically embraced the representation of same attorney, despite the fact the interests of one of the defendants had to be compromised for the good of the other.

While a defendant's relationship with his appointed counsel should be considered before that attorney is removed, the right to counsel of choice can be overcome by a showing of actual conflict or serious potential conflict. State v. Goldsberry, 419 Md. 100, 118, 18 A.3d 836, 847 (Md. 2011). Mandating that one of the defendants or the attorney object, or the issue is not

considered preserved for appeal, would preclude the substance of the waiver issue from ever being addressed on direct appeal.

Waiver

This Court should also respectfully reconsider and grant rehearing as to its waiver analysis. This Court wrote that "appellant cannot now complain of an error which is own conduct induced." Shearouse's Adv. Sh. # 9 at p. 91 (February 27, 2013). This Court, under its waiver analysis, essentially continued to find fault with appellant for desiring to want Diggs to represent him, and again raise his failed insanity defense. This Court cited Brady v. United States, 397 U.S. 742, 748 (1970), to support its conclusion that "appellant's extensive endorsement of Diggs's continued representation constituted a valid waiver" finding appellant's waiver was voluntary, knowing and an intelligent act done with sufficient awareness of the relevant circumstances and likely consequences. Shearouse's Adv. Sh. # 9 at p. 91 (February 27, 2013).

As appellant urged in his brief of appellant, an attorney should not represent a defendant where counsel's adequacy is in question. See, People v. Norris, 46 Ill.App.3d 536, 541, 361 N.E.2d 105, 110 (Ill. App. 1977). It is a conflict of interest for counsel to represent a client at a PCR hearing where the claim is against him or another member of counsel's office. Adams v. State, 380 So.2d 421, 422 (Fla. 1980); People v. Fields, 88 Ill.App.3d 821, 410 N.E.2d 1178 (Ill. App. 1980); Owens v. State, 792 So.2d 650, 654 (Fla. App. 2001) ("In this case, defense counsel could not effectively represent appellant during sentencing as to both cases when he faced a possible ineffectiveness of counsel claim. The more counsel said, the more he put into the record which could later be used against him in the ineffectiveness claim."); at post-trial plea withdrawals where counsel or a member of counsel's office represented defendant at the plea hearing, People v. Norris, 46 Ill.App.3d at 541; 361 N.E.2d at 110 ("Although an attorney should

not argue his own inadequacy or that of his office, he is under a duty to withdraw as counsel when the issue arises."); and at trial where defendant is denied his pre-trial motion for new representation and subsequently files a federal action against counsel's office, Odum v. State, 283 Ga.App. 291, 293, 641 S.E.2d 279, 281 (Ga. App. 2007) ("If raised pre-trial, a potential conflict of interest is sufficient to bar that representation.").

As appellant urged in his brief: "Courts have an independent interest in assuring compliance with ethical standards and the appearance of fairness." United States v. Wheat, 486 U.S. 153, 153 (1988). The body of law surrounding conflict of interest issues indicates a strong desire to maintain the indicia of fairness and propriety. To cure a conflict of interest, a defendant can make an informed waiver. Holloway v. Arkansas, 435 U.S. 475, 483 n. 5, (1978). Appellant cited Brady v. United States, 397 U.S. 742 (1970) on page twenty-six of his brief in support of this proposition.

Respectfully, appellant was not questioned *at all* about any potential risks he faced by having counsel Diggs represent him and essentially offer the same defense that was unsuccessful during the first death penalty trial. Further, counsel Diggs and appellant were advised *it would be improper to talk about the PCR claims where here the murders occurred a short time apart and the facts of both murders were inextricably entwined since the state's case was that appellant killed Ling and was using Turner to hide out and plan his next move.*

Diggs also wanted the judge to advise him if the judge thought his continued representation became problematic during the trial. That placed the trial judge in an untenable situation of "monitoring" the adequacy of defense counsel's representation which was a confusion of his judicial role. The trial court was asked to intervene and take corrective action at some point during the trial, assumingly even order a mistrial if it thought Diggs' representation

had become problematic. This Court respectfully overemphasized appellant's enthusiastic endorsement of Diggs as his attorney where he again was presenting an insanity defense at the same time he was alleging Diggs was ineffective during the first capital trial in a neighboring county post-conviction relief action arising out of a scenario twenty-four hours later. An endorsement of Diggs by appellant where he was offering an insanity defense should have been viewed as extraordinarily suspect by the trial judge – yet it was not.

In United States v. Swartz, 975 F.2d 1042 (4th. Cir. 1992), where counsel also represented a co-defendant to Swartz's detriment, the Court articulated the proper line of questioning for an effective conflict waiver:

> [T]he court should seek to elicit *a narrative response* from each defendant that he has been advised of his right to effective representation, that he understands *the details of his attorney's possible conflict of interest and the possible perils of such a conflict*, that he has discussed the matter with his attorney or if he wishes with outside counsel, and that he voluntarily waives his Sixth Amendment protections."

Id at 1049; citing, U.S. v. Akinseye, 802 F.2d 740, 745 (Md. 1986)

The trial judge's questioning of appellant here was limited to whether he wanted Mr. Diggs to continue representing him. R. 2961, ll. 16-23. However, the law requires that the record reflect a defendant's *full understanding* of any negative consequences arising from the conflict. U.S. v. Swartz, 975 F.2d at 1049.

Appellant told the judge that his decision to keep counsel Diggs, even though there were pending allegations of ineffective assistance of counsel against him, was because he felt that any other attorney besides Diggs may not believe in his defense – which had failed to first time during the Ling trial. R. 2963, ll. 4-10.

Because both the right to counsel and the right to counsel free from conflicts and "devoted to the interests of his client" are derived from the Sixth Amendment, the standard for determining whether a conflict of interest is effectively waived should be at least as thorough as an effective waiver for a right to counsel. See Von Moltke v. Gillies, 332 U.S. at 725; United States v. Wheat, 813 F.2d. 8, ll. 22-25. This Court respectfully should grant rehearing and fully explore the lack of a meaningful waiver of conflict free counsel given the enormous risks that appellant faced in waiving a conflict with Diggs representing him again on failed insanity defense which was the subject of a pending PCR in another county.

Juror #480 was a death prone juror

This Court should also grant rehearing because it failed to address the fact that Juror #480 likely conveyed to the other jurors her knowledge of appellant's prior conviction wherein he "murdered his girlfriend, and left the daughter for dead." Shearouse's Adv. Sh. # 9 at p. 92 (February 27, 2013). The juror also knew appellant had been sentenced to death. R. 644, l. 7 – 646, l. 13. A jury aware of appellant's prior murder conviction, and death sentence, where he was on trial for murder, and asserting an insanity defense, could not reasonably be expected to be impartial. This Court should respectfully address this issue, and the trial judge's failure to instruct Juror #480 not to discuss her knowledge of the prior murder with the other jurors.

In West v. State of Mississippi, 463 S.E.2d 1048, 1052-1053 (1985) the state supreme court held that it was reversible error for the solicitor to bring up during the guilt phase of the defendant's trial evidence of other murders which were not related to the murder for which the defendant was on trial. If the solicitor in the present case brought up evidence of appellant's prior crimes and death sentence during the guilt phase of this trial, it would have been grounds for a mistrial. *There is respectfully no difference in seating a juror who knows this information from the outset.* To believe

the juror in this case did not convey this information to the other jurors *where she was not instructed otherwise* is simply to ignore human nature.

Juror # 480's knowledge of appellant's character evidence and prior bad acts along with his sentence of death was compounded by her willingness to sentence a defendant to death in every instance of an aggravating circumstance being presented. This Court wrote that "Juror #480's initial statements demonstrate a troubling likelihood that her view on the issue would have substantially impaired her performance as a juror. However, we find that the trial court sufficiently rehabilitated her." Shearouse's Adv. Sh. # 9 at p. 94 (February 27, 2013).

If a juror is merely allowed to state, while she is being rehabilitated by the trial court, that she will follow the law as instructed then death prone jurors such as Juror #480 are going to be allowed to sit in judgment during capital trials in our state. Juror #480's entire *voir dire*, when viewed in context, and not just when parroting the "correct answers" while she is being rehabilitated by the trial court, respectfully, shows a juror who is intent on imposing the death penalty on a murderer. See Morgan v. Illinois, 504 U.S. 719 (1992); State v. Bennett, 328 S.C. 251, 493 S.E.2d. 845 (1997).

In Bennett, this Court remanded the case for resentencing when a juror said he would have to go with the majority. Critically, this Court noted language in Morgan that general questions of fairness and impartiality were insufficient to detect unqualified jurors. The trial court's attempt to rehabilitate Juror # 480's statement about imposing death were insufficient to cure the juror's unequivocal response that she would impose death if an aggravating circumstance was found.

Here, the juror said she knew appellant had been sentenced to death. R. 635, ll. 14-20. She was predisposed to vote for the death penalty as opposed to life imprisonment if the state presented evidence of an aggravating circumstance. She said she would do so in every case. R. 639, l. 8 –

640, l. 15. Again, after she said this, the trial court was able to get the juror to say she could "follow the law." R. 640, l. 18 – 643, l. 3.

Defense counsel argued that the juror was not qualified because of her prior knowledge of appellant, his death sentence, and her position on imposing the death penalty. R. 644, l. 7 – 646, l. 13. During jury selection, defense counsel struck all of the similarly situated jurors with the exception of Juror # 480 *because he had used all ten of his strikes by that time.* R. 1296, l. 18 – 1315, l. 11. Before Juror # 480, was seated defense counsel noted on the record that he had exhausted his strikes. R. 1313, ll. 16-21.

Due process under the Fourteenth Amendment and the Sixth Amendment to the United States Constitution demands that a defendant be given a fair trial by a panel of impartial, indifferent jurors. Wainwright v. Witt, 469 U.S. 412 (1985); Witherspoon v. Illinois, 391 U.S. 510 (1968); Ross v. Oklahoma, 487 U.S. 81 (1988). Juror #480 was not a qualified juror. She was a death prone juror who would infect the remainder of the jury with her knowledge that appellant had committed a prior murder, and had already been sentenced to death. Respectfully, knowledge that appellant had already been sentenced to death can certainly have the consequence of lessening the sense of responsibility for the present decision. People v. Davis, 452 N.E.2d 525 (Ill. 1983) correctly made that point.

Jurors sixty-five and older being a distinctive group

This Court noted that in Duren v. Missouri, 439 U.S. 357, (1979), the United States Supreme Court found that granting women, upon request, an automatic exemption from jury service violated a defendant's right to a jury chosen from a cross-section of the community. The court found that women as a group were **a distinctive group** in the community.

To find a violation of the Sixth Amendment requirement that a person charged with a crime must be able to draw from a fair cross- section of the community, and a defendant also had to show that "the representation of this group in the venire from which the juries are selected is not fair and reasonable in relation to the number of such persons in the community." Finally, a defendant had to show that "this underrepresentation is due to systematic exclusion of the group in the jury selection process." Duren v. Missouri, 439 U.S. 357, 364 (1979).

A "distinctive" group has been defined as one that: (1) shows a quality or attribute that defines or limits membership in the group; (2) possesses a cohesiveness of ideas, attitudes, or experiences that distinguishes the purported group from the rest of society; and (3) shares a community of interest that may not be represented in other segments of the population. Shearouse's Adv. Sh. # 9 at p. 99 (February 27, 2013).

This Court found that jurors sixty-five and older – unlike women – are not a "distinctive" group." Appellant continues to respectfully note that citizens sixty-five or older do make up a distinctive group in the community. The most compelling fact is that clearly a community made up of entirely of citizens under the age of sixty-five would be significantly different than a community comprised of all citizens. People sixty-five or older frequently share the same generational values and experiences. They have been alive through the same major world and national events and cultural changes. They are often more involved in their community and bring invaluable insight and wisdom to the jury simply based on their maturity. In addition, older citizens are often more rational and sensible as a result of their age. Therefore, such exemption dilutes the quality of community judgment represented by the jury in criminal trials. See Taylor v. Louisiana, 419 U.S. 531, 535 (1975).

This is a cross-section of the community challenge, not an equal protection challenge and appellant submits that jurors sixty-five and older are a distinctive group. Further, the representation of citizens sixty-five or older in the venire from which the jury was selected in this case was not fair and reasonable in relation to the number of such persons in the community. This Court can take judicial notice that, according to the U.S. Census Bureau, the population of citizens sixty-five or older in Horry County in 2009, the year the trial took place, **was 18.0 percent.**[1] This is a significant portion of the county's population. However, ***only one of the qualified jurors was sixty-five or older***, almost completely eliminating the representation of 18.0 percent of the community's population in the venire from which the jury was ultimately selected.

This elimination of such a significant portion of the county's population is both unfair and unreasonable. It is untenable to advocate, as defense counsel argued, that in this day and age with the improvements in the fields of health and medical care, that all citizens age sixty-five and older can be automatically exempt, over the telephone, because of the fact that are simply sixty-five years old or older.

Again, this argument is analogous to Taylor v. Louisiana, 419 U.S. at 534 where the Court held that: "It is untenable to suggest these days that it would be a special hardship for each and every woman to perform jury service or that society cannot spare any women from their present duties."

Just as a change in societal views of the role of women and their occupations made the exclusion of women from jury service unreasonable in the 1970s, the improvement of medical care and the overall health of our nation's seniors has made the exclusion of citizen's sixty-five

[1] U.S. Census Bureau, State and County QuickFacts, http://quickfacts.census.gov/qfd/states/45/45051.html (Last visited July 26, 2011)

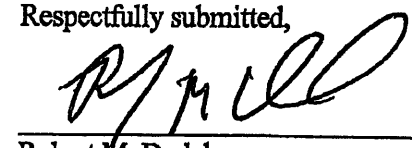
or older unreasonable today. A significant amount of such citizens are wholly qualified to serve on a jury.

This Court should grant rehearing and re-examine its view that jurors sixty-five and older, like women in the 1975 case of Taylor v. Louisana, are a distinctive whose systematic exclusion from jury service violates a defendant's right to a cross-section of the venire, and that group's judgment, and its wisdom of age.

As appellant noted in his brief, State v. Rogers, 355 N.C. 420, 449, 562 S.E.2d 859, 877-878 (2002) involved a similar challenge but on an equal protection basis. As the North Carolina Supreme Court previously noted, "The adverse effects of growing old do not strike all equally or at the same time, and it is only sensible to allow trial judges to consider the individual when a prospective juror seeks to be excused because of his or her age." Rogers, 355 N.C. 420, 449, 562 S.E.2d 859, 877-878 (2002).

Appellant showed in his brief that he can detail the statistical requirement that excluding jurors sixty-five and older violates his right to a cross-section of the jury, and appellant respectfully requests that this Court reconsider and grant rehearing on its holding that jurors sixty-five and older are not a "distinctive" group.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

This 14th day of March, 2013.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

Appellate Case No. 2010-154746

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon J. Anthony Mabry, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of March, 2013.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 14th day
of March, 2013.

(L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013.

4714

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@scid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Horry

Client's Full Name: Stephen C. Stanko

List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers): 05-GS-26-2927

Last Known Address (Prior to Incarceration): Murrells Inlet, S.C.

List All Charges With CDR Code: Murder- 116

Voucher Submitted Under Seal? ☐ YES ☒ NO

Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? (Mistrial/Retrial are considered new cases) ☒ YES ☐ NO

Type of Cases (Most Serious Charge): ☒ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEY'S FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
		$

MAXIUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

TOTAL FEES: $

EXPENSES

Long Distance Telephone Calls *	$
Psychiatric Examination *	$
Expert Witness(es) *	$
Investigative Services *	$ 16,048.24
Extraordinary Travel Expenses *	$ 8,836.24
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$
	$

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.) $ 24,884.48

MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.

Less amount paid by Defendant or by any person on Defendant's behalf. $

TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER: $

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20__

☐ Final submission; no further requests for funds. Date case concluded: _____, 20__

Method of Disposition: ☐ Plea ☐ Trial: ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: Brana

Check Applicable Category: ☐ Public Defender ☒ Private Attorney

Attorney's Signature:

Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee: Brana J. Williams, Williams Law Firm, LLC, 1115 3rd Ave, Conway SC 29526

(Also, Please Provide a valid Email Address) williamslawfirm@sc.rr.com

SS or F.E.I. Number: [redacted]

TELEPHONE NUMBER: 843-248-5700

APPROVED BY:

Trial Judge's Signature: Roger M. Young

Court or Clerk: Lisa Cribb

Date Approved: 8/4/10

CERTIFIED BY:

Clerk of Court's Signature:

Clerk of Court For (County):

Date Certified:

OID FILE NO.: 4715

AGENCY VOUCHER NO.: 4104

CID FORM 100 (10/02) Local Duplication is Authorized

PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE

WILLIAMS LAW FIRM, LLC

Brana J. Williams, Attorney at Law

1115 Third Avenue
Conway, SC 29526

Telephone: (843) 248-5100
Facsimile: (843) 248-5103

Date: 12/01/2009

Stephen C. Stanko

Regarding: Stanko, Stephen C.
Invoice No: 01820 07-119

Services Rendered

Date	Staff	Description	Hours	Rate	Charges
1/23/2007	BJW	initial meeting with client at Lieber	7.50	$40.00	$300.00
3/21/2007	BJW	return copies of case to WID's office	1.00	$40.00	$40.00
3/22/2007	BJW	initial review of file	4.00	$40.00	$160.00
3/23/2007	BJW	initial review of file	4.00	$40.00	$160.00
3/26/2007	BJW	sent request to Lieber to midify client call status	0.15	$40.00	$6.00
3/26/2007	BJW	met client at Lieber with WID	6.50	$40.00	$260.00
4/13/2007	BJW	Meeting with Bill Diggs to discuss case	2.00	$40.00	$80.00
5/02/2007	BJW	Status conference before Judge Baxley	0.50	$60.00	$30.00
5/02/2007	BJW	Meeting with Bill Diggs, solicitor and judge before and after status conference to discuss case	1.00	$40.00	$40.00
6/20/2007	BJW	Meeting and travel time to Lieber to see client	7.00	$40.00	$280.00
8/23/2007	BJW	Meeting and travel time to Lieber to see client	7.00	$40.00	$280.00
8/30/2007	BJW	Status conference with judge	1.00	$60.00	$60.00

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8/30/2007	BJW	meeting with Bill Diggs and solicitor	0.50	$40.00	$20.00
9/07/2007	BJW	letter to Lieber to modify client call status	0.20	$40.00	$8.00
11/27/2007	BJW	email regarding Stanko visit @ Lieber	0.05	$40.00	$2.00
12/03/2007	BJW	Stanko at Lieber	8.00	$40.00	$320.00
12/05/2007	BJW	Collect call from client	0.10	$40.00	$4.00
12/12/2007	BJW	Transmittal of Stanko Letter to W. Diggs	0.10	$40.00	$4.00
1/08/2008	BJW	Meeting w/Bill Diggs	0.50	$40.00	$20.00
2/25/2008	BJW	Telephone call	0.20	$40.00	$8.00
2/25/2008	BJW	Stanko email	0.10	$40.00	$4.00
2/25/2008	BJW	Collect call from client regarding Appeal being denied.	0.15	$40.00	$6.00
2/26/2008	BJW	RE: Stanko - phone call with WID office	0.10	$40.00	$4.00
3/24/2008	BJW	call from client	0.15	$40.00	$6.00
3/24/2008	BJW	call with WID to discuss scheduling & visit	0.17	$40.00	$6.80
3/24/2008	BJW	call from client	0.15	$40.00	$6.00
3/27/2008	BJW	Call from client	0.10	$185.00	$18.50
3/27/2008	BJW	emails & calls to schedule meeting with Judge Baxley	0.50	$40.00	$20.00
4/10/2008	BJW	Stanko - collect call ftom client	0.22	$40.00	$8.80
4/16/2008	BJW	Meet with Stanko	9.00	$40.00	$360.00
5/07/2008	BJW	Accepted collect call	0.25	$40.00	$10.00
5/07/2008	BJW	collect call from client	0.50	$40.00	$20.00

5/12/2008	BJW	receipt & review of Order fo Stay , forward to client	0.50	$40.00	$20.00
5/12/2008	BJW	Stanko Order of Stay	0.20	$40.00	$8.00
5/16/2008	BJW	Accepted collect call	0.25	$40.00	$10.00
5/16/2008	BJW	collect call form client	0.25	$40.00	$10.00
8/07/2008	BJW	Trip with Bill Diggs to see client	9.00	$40.00	$360.00
9/10/2008	BJW	collect call from client	0.25	$40.00	$10.00
9/24/2008	BJW	collect call from client	0.25	$40.00	$10.00
9/25/2008	BJW	collect call from client	0.25	$40.00	$10.00
10/09/2008	BJW	Accepted collect call and BJW spoke to Mr. Stanko	0.10	$40.00	$4.00
10/09/2008	BJW	clooect call form client	0.00	$40.00	$0.00
10/09/2008	BJW	collect call from client	0.00	$40.00	$0.00
12/22/2008	BJW	Copy of Motion to Lift Order of Stay sent to client	0.15	$40.00	$6.00
12/29/2008	BJW	Ltr regarding Scheduling Order	0.15	$40.00	$6.00
2/05/2009	BJW	Status conference with judge	1.00	$60.00	$60.00
2/05/2009	BJW	met with client before and after status conference	0.50	$40.00	$20.00
2/05/2009	BJW	Meeting with Bill Diggs to discuss status conference with judge	0.50	$40.00	$20.00
2/13/2009	BJW	Go see Stanko - meet @ 9 @ GPD	9.00	$65.00	$585.00
2/26/2009	BJW	Ltr to client sending copy of Scheduling ORder	0.15	$40.00	$6.00

Williams Law Firm, LLC

3/04/2009	BJW	Prep for hearing before Judge John on scheduling and hearing	2.00	$65.00	$130.00
3/05/2009	BJW	Ltr to client sending copy of juror questinaire	0.15	$65.00	$9.75
3/10/2009	BJW	RE: expert witness suggestions	0.10	$40.00	$4.00
5/01/2009	BJW	Ltr to clt sending copy of Motion & Not of Motion	0.15	$40.00	$6.00
6/05/2009	BJW	Prep for & Hearing to remove Bil again	0.00	$40.00	$0.00
7/01/2009	BJW	Brana and Bill to go to LCI - meet @ Georgetown PD	7.00	$40.00	$280.00
7/14/2009	BJW	FW: Case consult - email to BD	0.10	$40.00	$4.00
7/14/2009	BJW	FW: Case consult - email & t/c with BD	0.20	$40.00	$8.00
7/20/2009	BJW	RE: Stanko - email to BD	0.10	$40.00	$4.00
7/24/2009	BJW	Stanko - Order for Brent Turvey - Draft & email to BD	0.50	$40.00	$20.00
8/08/2009	BJW	going over transcripts of last trial	4.00	$40.00	$160.00
8/24/2009	BJW	Status Conference	1.50	$40.00	$60.00
8/29/2009	BJW	going over transcripts and file of last trial	4.00	$40.00	$160.00
8/31/2009	BJW	Collect Telephone call from Stanko	0.20	$40.00	$8.00
8/31/2009	BJW	ltr to clt sending copy of leter from Fran Humpries with statement	0.25	$40.00	$10.00
9/03/2009	BJW	State v Stanko - emails to Judge & Turvey	0.20	$40.00	$8.00
9/10/2009	BJW	t/c with BD; emails to BTurvey: fiel review: copies to copier	5.00	$40.00	$200.00
9/13/2009	BJW	going over transcripts of last trial	5.00	$40.00	$200.00

Timeline Report

Date Printed: 12/01/2009
Time Printed: 10:33AM
Printed By: BRANA

Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Billing	1/23/2007 Tue	3:51PM	BJW	FILE	initial meeting with client	Stanko, Stephen C.	07-119	
Billing	3/20/2007 Tue	3:53PM	BJW	EXP	copies of file for BJW	Stanko, Stephen C.	07-119	
Billing	3/21/2007 Wed	8:00AM	BJW	FILE	return copies of case to W	Stanko, Stephen C.	07-119	
Billing	3/22/2007 Thu	9:00AM	BJW	FILE	initial review of file	Stanko, Stephen C.	07-119	
Billing	3/23/2007 Fri	9:00AM	BJW	FILE	initial review of file	Stanko, Stephen C.	07-119	
Billing	3/26/2007 Mon	8:00AM	BJW	FILE	met client at Lieber with \	Stanko, Stephen C.	07-119	
Billing	4/13/2007 Fri	4:39PM	BJW	MEET	Meeting with Bill Diggs t	Stanko, Stephen C.	07-119	
Billing	5/02/2007 Wed	4:40PM	BJW	COUR	Status conference before J	Stanko, Stephen C.	07-119	
Billing	5/02/2007 Wed	4:42PM	BJW	MEET	Meeting with Bill Diggs, s	Stanko, Stephen C.	07-119	
Billing	6/20/2007 Wed	8:39AM	BJW	MEET	Meeting and travel time tc	Stanko, Stephen C.	07-119	
Billing	8/23/2007 Thu	8:40AM	BJW	MEET	Meeting and travel time tc	Stanko, Stephen C.	07-119	
Billing	8/30/2007 Thu	8:42AM	BJW	COUR	Status conference with juc	Stanko, Stephen C.	07-119	
Billing	8/30/2007 Thu	8:44AM	BJW	MEET	meeting with Bill Diggs a	Stanko, Stephen C.	07-119	
Billing	9/07/2007 Fri	3:28PM	BJW	FILE	letter to Lieber to modify	Stanko, Stephen C.	07-119	
Billing	9/27/2007 Thu	8:00AM	BJW	FILE	sent request to Lieber to n	Stanko, Stephen C.	07-119	
Billing	11/27/2007 Tue	2:54PM	BJW	EMAL	email regarding Stanko vi	Stanko, Stephen C.	07-119	
Event	12/03/2007 Mon	8:30AM	BJW	CONF	Stanko at Lieber	Stanko, Stephen C.	07-119	
Billing	12/04/2007 Tue	8:30AM	BJW	FILE	Stanko at Lieber	Stanko, Stephen C.	07-119	
Billing	12/04/2007 Tue	2:13PM	BJW	PHNC	Collect call from client	Stanko, Stephen C.	07-119	
Document	12/12/2007 Wed	3:42PM	DPC	CORR	Transmittal of Stanko Lett	Stanko, Stephen C.	07-119	N
Billing	1/08/2008 Tue	8:16AM	BJW	MEET	Meeting w/Bill Diggs	Stanko, Stephen C.	07-119	
Billing	2/25/2008 Mon	9:47AM	BJW	PHNC	Calls to Office on visits to	Stanko, Stephen C.	07-119	
Billing	2/25/2008 Mon	9:47AM	BJW	PHNC	Calls to Office on visits to	Stanko, Stephen C.	07-119	
Billing	2/25/2008 Mon	12:12PM	BJW	PHNC	Collect call from client re	Stanko, Stephen C.	07-119	
Note	2/25/2008 Mon	12:14PM	DPC	CALL	Phone Call - Appeal Deni	Stanko, Stephen C.	07-119	
Note	2/25/2008 Mon	3:00PM	BJW	CALL	Telephone call	Stanko, Stephen C.	07-119	
Email	2/25/2008 Mon	3:31PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	2/26/2008 Tue	9:59AM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Billing	2/26/2008 Tue	9:59AM	BJW	EMAL	RE: Stanko - phone call w	Stanko, Stephen C.	07-119	
Email	2/26/2008 Tue	10:02AM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Billing	2/26/2008 Tue	3:00PM	BJW	PHNC	Telephone call	Stanko, Stephen C.	07-119	
Billing	2/26/2008 Tue	3:31PM	BJW	EMAL	Stanko email	Stanko, Stephen C.	07-119	
Billing	3/24/2008 Mon	8:00AM	BJW	FILE	call from client	Stanko, Stephen C.	07-119	
Billing	3/24/2008 Mon	8:00AM	BJW	FILE	call from client	Stanko, Stephen C.	07-119	
Billing	3/24/2008 Mon	9:47AM	BJW	PHNC	Calls to Office on visits to	Stanko, Stephen C.	07-119	
Billing	3/24/2008 Mon	9:47AM	BJW	PHNC	Calls to Office on visits to	Stanko, Stephen C.	07-119	
Billing	3/24/2008 Mon	9:47AM	BJW	PHNC	Calls to Office on visits to	Stanko, Stephen C.	07-119	
Phone	3/24/2008 Mon	11:10AM	BJW	CALL	call with WID to discuss s	Stanko, Stephen C.	07-119	
Document	3/24/2008 Mon	1:36PM	BJW	CORR	Letter to Judge Baxley.3.2	Stanko, Stephen C.	07-119	N
Document	3/24/2008 Mon	1:40PM	BJW	CORR	Letter to Judge Baxley.3.2	Stanko, Stephen C.	07-119	N
Email	3/26/2008 Wed	1:20PM	BJW	REG	Meeting in State v. Stanko	Stanko, Stephen C.	07-119	
Billing	3/27/2008 Thu	8:30AM	BJW	EMAL	emails & calls to schedule	Stanko, Stephen C.	07-119	
Billing	3/27/2008 Thu	11:04AM	BJW	PHNC	Call from client	Stanko, Stephen C.	07-119	
Phone	3/27/2008 Thu	11:04AM	BJW	CALL	Call from client	Stanko, Stephen C.	07-119	
Billing	3/27/2008 Thu	11:10AM	BJW	PHNC	call with WID to discuss s	Stanko, Stephen C.	07-119	
Event	4/08/2008 Tue	8:00AM	BJW	CONF	CANCELED - Meet with	Stanko, Stephen C.	07-119	
Document	4/08/2008 Tue	4:18PM	DPC	INV	3/31/2008 Invoice # 232	Stanko, Stephen C.	07-119	
Phone	4/10/2008 Thu	9:53AM	BJW	CALL	phone call	Stanko, Stephen C.	07-119	N
Billing	4/10/2008 Thu	9:57AM	BJW	FILE	Stanko - collect call from	Stanko, Stephen C.	07-119	
Event	4/15/2008 Tue	1:30PM	BJW	CONF	Meet with Judge Baxley	Stanko, Stephen C.	07-119	
Event	4/16/2008 Wed	8:00AM	BJW,CTG,DPC	MEET	Meet with Stanko	Stanko, Stephen C.	07-119	
Event	4/16/2008 Wed	8:00AM	CTG,BJW,DPC	MEET	Meet with Stanko	Stanko, Stephen C.	07-119	
Event	4/16/2008 Wed	8:00AM	DPC,BJW,CTG	MEET	Meet with Stanko	Stanko, Stephen C.	07-119	
Billing	5/07/2008 Wed	8:00AM	BJW	FILE	collect call from client	Stanko, Stephen C.	07-119	

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Timeline Report

Date Printed: 12/01/2009
Time Printed: 10:33AM
Printed By: BRANA

Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Billing	5/07/2008 Wed	3:16PM	BJW	PHNC	Accepted collect call	Stanko, Stephen C.	07-119	
Billing	5/09/2008 Fri	2:23PM	BJW	PHNC	Accepted collect call	Stanko, Stephen C.	07-119	
Billing	5/12/2008 Mon	8:00AM	BJW	FILE	receipt & review of Order	Stanko, Stephen C.	07-119	
Billing	5/16/2008 Fri	8:00AM	BJW	FILE	collect call form client	Stanko, Stephen C.	07-119	
Billing	5/28/2008 Wed	1:14PM	BJW	EMAL	Stanko Order of Stay	Stanko, Stephen C.	07-119	
Event	8/07/2008 Thu	8:00AM	BJW	MEET	Trip with Bill Diggs to se	Stanko, Stephen C.	07-119	
Note	8/07/2008 Thu	11:17AM	DPC	CONF	Trip	Stanko, Stephen C.	07-119	
Billing	9/10/2008 Wed	8:00AM	BJW	FILE	collect call from client	Stanko, Stephen C.	07-119	
Note	9/22/2008 Mon	9:09AM	DPC	INFO	Telephone call	Stanko, Stephen C.	07-119	
Billing	9/24/2008 Wed	8:00AM	BJW	FILE	collect call from client	Stanko, Stephen C.	07-119	
Billing	9/25/2008 Thu	8:00AM	BJW	FILE	collect call from client	Stanko, Stephen C.	07-119	
Billing	10/09/2008 Thu	12:51PM	BJW	PHNC	Accepted collect call and	Stanko, Stephen C.	07-119	
Billing	10/09/2008 Thu	3:24PM	BJW	FILE	collect call from client	Stanko, Stephen C.	07-119	
Billing	10/09/2008 Thu	3:24PM	BJW	FILE	clooect call form client	Stanko, Stephen C.	07-119	
Document	12/22/2008 Mon	10:57AM	DPC	CORR	Copy of Motion to Lift Or	Stanko, Stephen C.	07-119	
Document	12/29/2008 Mon	3:04PM	CTG	CORR	Ltr regarding Scheduling	Stanko, Stephen C.	07-119	N
Billing	2/05/2009 Thu	8:47AM	BJW	MEET	Meeting with Bill Diggs t	Stanko, Stephen C.	07-119	N
Billing	2/05/2009 Thu	8:48AM	BJW	COUR	Status conference with juc	Stanko, Stephen C.	07-119	
Billing	2/05/2009 Thu	8:56AM	BJW	MEET	met with client before and	Stanko, Stephen C.	07-119	
Document	2/05/2009 Thu	1:45PM	CTG	FORM	Order of Transportation	Stanko, Stephen C.	07-119	
Event	2/13/2009 Fri	9:00AM	BJW	CONF	Go see Stanko - meet @ 9	Stanko, Stephen C.	07-119	N
Billing	2/17/2009 Tue	9:00AM	BJW	FILE	Go see Stanko - meet @ 9	Stanko, Stephen C.	07-119	
Document	2/17/2009 Tue	11:38AM	BJW	FORM	Scheduling ORder	Stanko, Stephen C.	07-119	
Document	2/17/2009 Tue	11:39AM	BJW	FORM	Sched Order.2	Stanko, Stephen C.	07-119	N
Document	2/26/2009 Thu	3:31PM	CTG	CORR	Ltr to clt reg sch Order 2-	Stanko, Stephen C.	07-119	N
Billing	2/26/2009 Thu	3:32PM	BJW	FILE	Ltr to client sending copy	Stanko, Stephen C.	07-119	N
Event	3/04/2009 Wed	9:30AM	BJW	CT	Scheduling Order - Judge	Stanko, Stephen C.	07-119	
Billing	3/04/2009 Wed	10:23AM	BJW	COUR	Prep for hearing before Ju	Stanko, Stephen C.	07-119	
Billing	3/05/2009 Thu	10:24AM	BJW	FILE	Ltr to client sending copy	Stanko, Stephen C.	07-119	
Document	3/05/2009 Thu	10:27AM	CTG	CORR	Ltr to clt sending copy of	Stanko, Stephen C.	07-119	
Billing	3/10/2009 Tue	3:35PM	BJW	FILE	RE: expert witness sugges	Stanko, Stephen C.	07-119	N
Billing	5/01/2009 Fri	12:30PM	BJW	FILE	Ltr to clt sending copy of	Stanko, Stephen C.	07-119	
Document	5/01/2009 Fri	12:30PM	CTG	CORR	Ltr to clt sending copy of	Stanko, Stephen C.	07-119	
Event	6/05/2009 Fri	9:00AM	BJW	CT	Prep for & Hearing to rem	Stanko, Stephen C.	07-119	N
Billing	6/05/2009 Fri	9:00AM	BJW	COUR	Prep for & Hearing to rem	Stanko, Stephen C.	07-119	
Document	6/30/2009 Tue	8:41AM	BJW	FORM	Order.Expert.VChilds	Stanko, Stephen C.	07-119	
Event	7/01/2009 Wed	9:00AM	BJW	MEET	Brana and Bill to go to LC	Stanko, Stephen C.	07-119	N
Email	7/08/2009 Wed	2:28PM	BJW	REG	Case consult	Stanko, Stephen C.	07-119	
Billing	7/14/2009 Tue	12:09PM	BJW	FILE	FW: Case consult - email	Stanko, Stephen C.	07-119	
Billing	7/14/2009 Tue	12:11PM	BJW	FILE	FW: Case consult - email	Stanko, Stephen C.	07-119	
Document	7/16/2009 Thu	12:04PM	CTG	FORM	memo to BJW from tc wit	Stanko, Stephen C.	07-119	
Billing	7/20/2009 Mon	4:44PM	BJW	EMAL	RE: Stanko - email to BD	Stanko, Stephen C.	07-119	N
Document	7/24/2009 Fri	1:40PM	BJW	FORM	Order.Expert.Turvey	Stanko, Stephen C.	07-119	
Billing	7/24/2009 Fri	2:03PM	BJW	FILE	Stanko - Order for Brent T	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:37PM	BJW	ORD	Order.Expert.Turvey	Stanko, Stephen C.	07-119	
Document	7/28/2009 Tue	3:38PM	BJW	ORD	Order.Expert.Turvey	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:39PM	BJW	ORD	Order.Expert.Turvey	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:40PM	BJW	ORD	Order.Expert.Turvey	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:41PM	BJW	ORD	Order.Expert.VChilds	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:42PM	BJW	ORD	Order.Expert.Thrasher	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:42PM	BJW	ORD	Order.Expert.Einhorn	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:43PM	BJW	ORD	Order.Expert.Califf	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:43PM	BJW	ORD	Order.Expert.Wu	Stanko, Stephen C.	07-119	N
Document	7/28/2009 Tue	3:44PM	BJW	ORD	Order.2ndMRI	Stanko, Stephen C.	07-119	N

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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Document	7/28/2009 Tue	4:08PM	BJW	ORD	Order.Expert.Turvey.Corr	Stanko, Stephen C.	07-119	N
Email	7/28/2009 Tue	5:17PM	CTG	REG	2nd Corrected Turvey Orc	Stanko, Stephen C.	07-119	
Email	7/29/2009 Wed	12:48PM	CTG	REG	Re: Stanko DP Trial	Stanko, Stephen C.	07-119	
Document	7/29/2009 Wed	1:15PM	BJW	ORD	Order.Expert.Turvey.Corr	Stanko, Stephen C.	07-119	N
Billing	8/08/2009 Sat	8:59AM	BJW	FILE	going over transcripts of l	Stanko, Stephen C.	07-119	
Document	8/14/2009 Fri	3:33PM	BJW	INV	8/14/2009 Invoice # 129(	Stanko, Stephen C.	07-119	N
Document	8/14/2009 Fri	3:55PM	BJW	INV	8/14/2009 Invoice # 135(	Stanko, Stephen C.	07-119	N
Document	8/14/2009 Fri	4:55PM	BJW	INV	8/14/2009 Invoice # 142(	Stanko, Stephen C.	07-119	N
Email	8/19/2009 Wed	3:58PM	BJW		Stanko	Stanko, Stephen C.	07-119	
Email	8/21/2009 Fri	8:52AM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Email	8/21/2009 Fri	8:52AM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Todo	8/24/2009 Mon	Y	BJW	FUP	status conference 8-24-20	Stanko, Stephen C.	07-119	
Email	8/24/2009 Mon	11:11AM	BJW	REG	Matters for Status Confer	Stanko, Stephen C.	07-119	
Email	8/24/2009 Mon	11:11AM	CTG	REG	Matters for Status Confer	Stanko, Stephen C.	07-119	
Document	8/24/2009 Mon	12:36PM	BJW	FORM	statement.State.PCRDelay	Stanko, Stephen C.	07-119	N
Event	8/24/2009 Mon	1:30PM	BJW	CT	Status Conference	Stanko, Stephen C.	07-119	
Billing	8/26/2009 Wed	1:30PM	BJW	COUR	Status Conference	Stanko, Stephen C.	07-119	
Email	8/27/2009 Thu	10:46AM	BJW	REG	Statement from AG Regar	Stanko, Stephen C.	07-119	
Email	8/27/2009 Thu	10:46AM	CTG	REG	Statement from AG Regar	Stanko, Stephen C.	07-119	
Email	8/28/2009 Fri	11:32AM	BJW	REG	State v. Stanko/Blair heari	Stanko, Stephen C.	07-119	
Email	8/28/2009 Fri	11:32AM	CTG	REG	State v. Stanko/Blair heari	Stanko, Stephen C.	07-119	
Email	8/28/2009 Fri	4:07PM	CTG	REG	Stanko II Blair Hearing	Stanko, Stephen C.	07-119	
Billing	8/29/2009 Sat	9:00AM	BJW	FILE	going over transcripts and	Stanko, Stephen C.	07-119	
Billing	8/31/2009 Mon	10:14AM	BJW	FILE	ltr to clt sending copy of l	Stanko, Stephen C.	07-119	
Document	8/31/2009 Mon	10:14AM	CTG	CORR	ltr to clt sending copy of l	Stanko, Stephen C.	07-119	
Billing	8/31/2009 Mon	1:29PM	BJW	FILE	Collect Telephone call fro	Stanko, Stephen C.	07-119	N
Note	8/31/2009 Mon	1:29PM	BJW	CALL	Collect Telephone call fro	Stanko, Stephen C.	07-119	
Email	8/31/2009 Mon	2:44PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	8/31/2009 Mon	2:44PM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Email	8/31/2009 Mon	3:27PM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	8/31/2009 Mon	3:27PM	CTG	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Document	9/02/2009 Wed	2:39PM	BJW	INV	9/02/2009 Invoice # 171(	Stanko, Stephen C.	07-119	N
Email	9/03/2009 Thu	11:11AM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	11:11AM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	12:47PM	BJW	REG	Stanko - our experts	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	2:14PM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	2:14PM	CTG	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	2:54PM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	2:58PM	CTG	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	2:58PM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Billing	9/03/2009 Thu	3:15PM	BJW	FILE	State v Stanko - emails to	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	3:15PM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	4:18PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/03/2009 Thu	4:18PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Event	9/04/2009 Fri	8:30AM	BJW	CT	Deadline for Agr between	Stanko, Stephen C.	07-119	
Email	9/08/2009 Tue	9:40AM	BJW	REG	Fridays Conference	Stanko, Stephen C.	07-119	
Email	9/08/2009 Tue	9:40AM	CTG	REG	Fridays Conference	Stanko, Stephen C.	07-119	
Email	9/08/2009 Tue	9:52AM	CTG	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/08/2009 Tue	9:52AM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/09/2009 Wed	3:55PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/09/2009 Wed	4:04PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/09/2009 Wed	4:04PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/09/2009 Wed	4:12PM	BJW	REG	FW: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/09/2009 Wed	4:17PM	BJW	REG	Fwd: State v Stanko	Stanko, Stephen C.	07-119	

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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Email	9/09/2009 Wed	4:26PM	BJW	REG	FW: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/09/2009 Wed	4:36PM	CTG	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/09/2009 Wed	4:36PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Todo	9/10/2009 Thu	Y	BJW	FUP	Deadline for Agr 9-4-09 v	Stanko, Stephen C.	07-119	
Email	9/10/2009 Thu	9:01AM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/10/2009 Thu	2:20PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/10/2009 Thu	2:20PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/10/2009 Thu	2:43PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/10/2009 Thu	2:58PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/10/2009 Thu	2:58PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Billing	9/10/2009 Thu	3:19PM	BJW	FILE	t/c with BD; emails to BT	Stanko, Stephen C.	07-119	
Event	9/11/2009 Fri	9:30AM	BJW	CT	re-scheduled-HC Justice (	Stanko, Stephen C.	07-119	
Email	9/11/2009 Fri	12:27PM	CTG	REG	documents to be copied ar	Stanko, Stephen C.	07-119	
Email	9/11/2009 Fri	2:56PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/11/2009 Fri	3:14PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/11/2009 Fri	3:21PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/11/2009 Fri	3:21PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Billing	9/13/2009 Sun	9:00AM	BJW	FILE	going over transcripts of l	Stanko, Stephen C.	07-119	
Billing	9/14/2009 Mon	10:18AM	BJW	EXP	Copies of notebook and sl	Stanko, Stephen C.	07-119	
Email	9/14/2009 Mon	10:39AM	BJW	REG	State v Stanko -	Stanko, Stephen C.	07-119	
Todo	9/15/2009 Tue	Y	BJW	DEAD	Briefs to be fled by 10-6 i.	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	11:30AM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:10PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:10PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:30PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:32PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:32PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Billing	9/15/2009 Tue	12:46PM	BJW	FILE	coordinating & booking 1	Stanko, Stephen C.	07-119	
Note	9/15/2009 Tue	12:46PM	BJW	INFO	coordinating & booking 1	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:51PM	CTG	REG	Confirmation Letter - MP.	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:51PM	BJW	REG	Confirmation Letter - MP.	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:52PM	CTG	REG	Alaska/Horizon Airlines i	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:52PM	BJW	REG	Alaska/Horizon Airlines i	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:58PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	12:58PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:18PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:19PM	BJW	REG	FW: Alaska/Horizon Airli	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:22PM	BJW	REG	FW: Confirmation Letter -	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:27PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:27PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:28PM	BJW	REG	Re: Confirmation Letter -	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:28PM	CTG	REG	Re: Confirmation Letter -	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	1:34PM	BJW	REG	State v Stephen Stanko	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	2:34PM	BJW	REG	RE: State v Stanko -	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	2:34PM	CTG	REG	RE: State v Stanko -	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	4:03PM	BJW	REMI	RE: State v Stephen Stank	Stanko, Stephen C.	07-119	
Email	9/15/2009 Tue	4:03PM	CTG	REG	RE: State v Stephen Stank	Stanko, Stephen C.	07-119	
Email	9/16/2009 Wed	1:41PM	CTG	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/17/2009 Thu	4:19PM	BJW	REG	RE: State v Stephen Stank	Stanko, Stephen C.	07-119	
Billing	9/17/2009 Thu	4:19PM	BJW	FILE	RE: State v Stephen Stank	Stanko, Stephen C.	07-119	
Email	9/18/2009 Fri	12:19PM	CTG	REG	RE: State v Stanko -	Stanko, Stephen C.	07-119	
Email	9/18/2009 Fri	12:19PM	BJW	REG	RE: State v Stanko -	Stanko, Stephen C.	07-119	
Email	9/18/2009 Fri	12:43PM	BJW	REG	meet next week to get pre-	Stanko, Stephen C.	07-119	
Email	9/18/2009 Fri	1:28PM	BJW	REG	RE: meet next week to get	Stanko, Stephen C.	07-119	

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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Email	9/18/2009 Fri	1:50PM	BJW	REG	RE: meet next week to get	Stanko, Stephen C.	07-119	
Email	9/18/2009 Fri	6:29PM	BJW	REG	Stanko case	Stanko, Stephen C.	07-119	
Email	9/18/2009 Fri	6:29PM	CTG	REG	Stanko case	Stanko, Stephen C.	07-119	
Email	9/21/2009 Mon	8:58AM	BJW	REG	FW: Stanko case	Stanko, Stephen C.	07-119	
Billing	9/21/2009 Mon	1:00PM	BJW	FILE	WORK ON STANKO - n	Stanko, Stephen C.	07-119	
Event	9/21/2009 Mon	1:00PM	BJW	FILE	WORK ON STANKO - n	Stanko, Stephen C.	07-119	
Document	9/21/2009 Mon	2:00PM	CTG	MISC	test	Stanko, Stephen C.	07-119	
Document	9/21/2009 Mon	2:52PM	BJW	FORM	Motion - Limit Term Mur	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:00PM	BJW	FORM	17-24-10.Factor#2.Uncon	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:05PM	BJW	FORM	17-24-10.Factor#4.Uncon	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:09PM	BJW	FORM	17-24-10-Factor#1.Uncon	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:11PM	BJW	FORM	17-24-10.CPresump#1.Ur	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:14PM	BJW	FORM	17-24-10.CPresump#2.Ur	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:23PM	BJW	FORM	#6.17-24-20.ArbitrFactor.	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:24PM	BJW	FORM	#8.16.3-10.IncompleteEvi	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:25PM	BJW	FORM	#9.16-3-10.Vague.Uncon	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:26PM	BJW	FORM	#7.17-24-20.ConcluPresu	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:42PM	BJW	FORM	#10.16-3-20.Hypofrontali	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	3:45PM	BJW	FORM	#11.Respond in Writing	Stanko, Stephen C.	07-119	N
Email	9/21/2009 Mon	3:49PM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	N
Email	9/21/2009 Mon	3:49PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/21/2009 Mon	3:58PM	BJW	REG	stnko motions	Stanko, Stephen C.	07-119	
Document	9/21/2009 Mon	3:58PM	BJW	FORM	#12.SealVistitorsLog	Stanko, Stephen C.	07-119	
Document	9/21/2009 Mon	4:14PM	BJW	FORM	#13.Gag1	Stanko, Stephen C.	07-119	N
Email	9/21/2009 Mon	4:26PM	CTG	REG	Confirmation	Stanko, Stephen C.	07-119	N
Document	9/21/2009 Mon	4:32PM	BJW	FORM	#13.Toxic Terms	Stanko, Stephen C.	07-119	
Document	9/21/2009 Mon	4:46PM	BJW	FORM	#14.LimitMurderTerm	Stanko, Stephen C.	07-119	N
Email	9/23/2009 Wed	2:58PM	CTG	REG	State v. Fergurson	Stanko, Stephen C.	07-119	N
Email	9/23/2009 Wed	2:58PM	BJW	REG	State v. Fergurson	Stanko, Stephen C.	07-119	
Todo	9/24/2009 Thu	Y	BJW	FUP	RJW's motions	Stanko, Stephen C.	07-119	
Event	9/24/2009 Thu	9:00AM	BJW	CORR	Meet with BD - pretrial m	Stanko, Stephen C.	07-119	
Billing	9/24/2009 Thu	9:00AM	BJW	FILE	Meet with BD - pretrial m	Stanko, Stephen C.	07-119	
Document	9/24/2009 Thu	10:09AM	BJW	FORM	#15.Fiar Trial Procedures	Stanko, Stephen C.	07-119	
Document	9/24/2009 Thu	10:11AM	BJW	FORM	#16 Excupiatory Evidence	Stanko, Stephen C.	07-119	N
Document	9/24/2009 Thu	10:14AM	BJW	FORM	#17.Preserve Physical Evi	Stanko, Stephen C.	07-119	N
Document	9/24/2009 Thu	10:15AM	BJW	FORM	#18.BarBroadcasting	Stanko, Stephen C.	07-119	N
Document	9/24/2009 Thu	10:16AM	BJW	FORM	#19.Preserve Evidence	Stanko, Stephen C.	07-119	N
Document	9/24/2009 Thu	10:17AM	BJW	FORM	#21.Disclose Prior Bad A	Stanko, Stephen C.	07-119	N
Document	9/24/2009 Thu	10:17AM	BJW	FORM	#20.Preserve Rough Note	Stanko, Stephen C.	07-119	N
Document	9/24/2009 Thu	10:18AM	BJW	FORM	#22.Change Venue	Stanko, Stephen C.	07-119	N
Todo	9/25/2009 Fri	N	BJW	FUP	f/u with Marianne Allbritt	Stanko, Stephen C.	07-119	N
Todo	9/25/2009 Fri	Y	BJW	DEAD	Get ready for hearing date	Stanko, Stephen C.	07-119	
Event	9/25/2009 Fri	8:30AM	BJW	CT	Deadline for filing pre-tri	Stanko, Stephen C.	07-119	
Event	9/25/2009 Fri	12:00PM	BJW	CONF	met Vickie Child at BD of	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	9:20AM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	9:24AM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	9:25AM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	9:25AM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	9:47AM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	9:57AM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	9:57AM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	10:02AM	BJW	REG	FW: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	10:26AM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	9/28/2009 Mon	10:26AM	CTG	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	

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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Todo	9/30/2009 Wed	N	BJW	DEAD	Get read for Ct 1-3 & 11-	Stanko, Stephen C.	07-119	
Email	9/30/2009 Wed	8:45AM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	9/30/2009 Wed	10:21AM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	9/30/2009 Wed	10:21AM	CTG	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Billing	9/30/2009 Wed	3:01PM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	9/30/2009 Wed	7:39PM	CTG	FILE	State v Stanko - locating c	Stanko, Stephen C.	07-119	
Email	9/30/2009 Wed	7:39PM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/01/2009 Thu	9:26AM	BJW	REG	Re: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/01/2009 Thu	3:08PM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	10/01/2009 Thu	3:08PM	CTG	REG	Time change	Stanko, Stephen C.	07-119	
Email	10/02/2009 Fri	10:38AM	CTG	REG	Time change	Stanko, Stephen C.	07-119	
Email	10/02/2009 Fri	10:38AM	BJW	REG	FW: Stanko II	Stanko, Stephen C.	07-119	
Email	10/02/2009 Fri	6:12PM	BJW	REG	FW: Stanko II	Stanko, Stephen C.	07-119	
Email	10/02/2009 Fri	6:12PM	CTG	REG	Crime scene visit/Stanko	Stanko, Stephen C.	07-119	
Email	10/03/2009 Sat	12:11PM	CTG	REG	Crime scene visit/Stanko	Stanko, Stephen C.	07-119	
Email	10/03/2009 Sat	12:11PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Event	10/04/2009 Sun	8:00AM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Billing	10/04/2009 Sun	8:05AM	BJW	FILE	Brent Turvey in town	Stanko, Stephen C.	07-119	
Email	10/04/2009 Sun	10:32AM	BJW	FILE	tiem on emails, phones &	Stanko, Stephen C.	07-119	
Email	10/04/2009 Sun	10:32AM	CTG	REG	Stanko prison interview	Stanko, Stephen C.	07-119	
Billing	10/04/2009 Sun	1:45PM	BJW	REG	Stanko prison interview	Stanko, Stephen C.	07-119	
Email	10/04/2009 Sun	1:46PM	CTG	FILE	RE: Stanko	Stanko, Stephen C.	07-119	
Email	10/04/2009 Sun	1:46PM	BJW	REG	RE: Stanko - crime scene	Stanko, Stephen C.	07-119	
Billing	10/05/2009 Mon	8:00AM	BJW	REG	Re: Stanko	Stanko, Stephen C.	07-119	
Event	10/05/2009 Mon	8:00AM	BJW		Re: Stanko	Stanko, Stephen C.	07-119	
Email	10/05/2009 Mon	8:05AM	BJW	FILE	Brent Turvey in town - pi	Stanko, Stephen C.	07-119	
Email	10/05/2009 Mon	8:05AM	CTG	REG	Brent Turvey in town	Stanko, Stephen C.	07-119	
Email	10/05/2009 Mon	8:11AM	BJW	REG	DVD of Scene Pictures at	Stanko, Stephen C.	07-119	
Event	10/05/2009 Mon	2:00PM	BJW	MEET	DVD of Scene Pictures at	Stanko, Stephen C.	07-119	
Billing	10/05/2009 Mon	3:53PM	BJW	EXP	RE: DVD of Scene Pictur	Stanko, Stephen C.	07-119	
Email	10/05/2009 Mon	8:36PM	BJW	REG	PD to see evidence - Dr. T	Stanko, Stephen C.	07-119	
Email	10/05/2009 Mon	8:36PM	CTG	REG	dinner for Turvey - pre-tr	Stanko, Stephen C.	07-119	
Event	10/06/2009 Tue	8:00AM	BJW	FILE	Stanko / evidence examin	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	9:15AM	CTG	REG	Stanko / evidence examin	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	9:23AM	CTG	REG	Brent Turvey in town	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	9:23AM	BJW	REG	Fw: Stephen Stanko	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	10:54AM	CTG	REG	RE: Stephen Stanko	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	11:47AM	CTG	REG	RE: Stephen Stanko	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	11:47AM	BJW	REG	Stanko 05026848	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	12:29PM	BJW	REG	State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	12:29PM	CTG	REG	State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	12:44PM	BJW	REG	Viewing of evidence in G	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	12:49PM	BJW	REG	Viewing of evidence in G	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	12:49PM	CTG	REG	RE: Viewing of evidence	Stanko, Stephen C.	07-119	
Email	10/06/2009 Tue	1:12PM	BJW	REG	RE: Viewing of evidence	Stanko, Stephen C.	07-119	
Document	10/06/2009 Tue	2:50PM	BJW	REG	RE: Viewing of evidence	Stanko, Stephen C.	07-119	
Billing	10/06/2009 Tue	3:53PM	BJW	MISC	Stanko Interview - V Chil	Stanko, Stephen C.	07-119	N
Email	10/07/2009 Wed	2:06AM	CTG	EXP	dinner for Turvey - pre-tr	Stanko, Stephen C.	07-119	
Email	10/07/2009 Wed	2:06AM	BJW	REG	Stanko billing to date	Stanko, Stephen C.	07-119	
Billing	10/07/2009 Wed	8:00AM	BJW	REG	Stanko billing to date	Stanko, Stephen C.	07-119	
Email	10/07/2009 Wed	9:01AM	CTG	FILE	Brent Turvey in town - pi	Stanko, Stephen C.	07-119	
Email	10/07/2009 Wed	9:01AM	BJW	REG	evidence	Stanko, Stephen C.	07-119	
				REG	evidence	Stanko, Stephen C.	07-119	

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Timeline Report

Date Printed: 12/01/2009
Time Printed: 10:33AM
Printed By: BRANA

Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Email	10/07/2009 Wed	3:11PM	BJW	REG	Invoice from Blazer Inves	Stanko, Stephen C.	07-119	
Email	10/07/2009 Wed	3:11PM	CTG	REG	Invoice from Blazer Inves	Stanko, Stephen C.	07-119	
Email	10/07/2009 Wed	3:12PM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/07/2009 Wed	3:12PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	8:37AM	BJW	REG	Trial	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	8:40AM	BJW	REG	Re: Trial	Stanko, Stephen C.	07-119	
Document	10/08/2009 Thu	9:38AM	BJW	INV	10/08/2009 Invoice # 176	Stanko, Stephen C.	07-119	N
Billing	10/08/2009 Thu	10:50AM	BJW	FILE	met with clietn at courthou	Stanko, Stephen C.	07-119	
Billing	10/08/2009 Thu	10:50AM	BJW	COUR	Hearing on pre-trial motic	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	1:08PM	BJW	REG	RE: State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	1:08PM	CTG	REG	RE: State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	3:31PM	CTG	REG	hey	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	3:31PM	BJW	REG	hey	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	5:13PM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	5:15PM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	5:19PM	BJW	REG	RE: smith	Stanko, Stephen C.	07-119	
Email	10/08/2009 Thu	5:49PM	BJW	REG	Re: Stanko	Stanko, Stephen C.	07-119	
Email	10/09/2009 Fri	1:19PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/09/2009 Fri	1:19PM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/09/2009 Fri	3:03PM	CTG	REG	stanko	Stanko, Stephen C.	07-119	
Email	10/09/2009 Fri	3:03PM	BJW	REG	stanko	Stanko, Stephen C.	07-119	
Document	10/09/2009 Fri	3:08PM	BJW	MISC	Stanko II - Expert List	Stanko, Stephen C.	07-119	
Billing	10/09/2009 Fri	3:53PM	BJW	EXP	hotel for Turvey - pre-tria	Stanko, Stephen C.	07-119	N
Email	10/09/2009 Fri	3:53PM	BJW	REG	RE: Trial	Stanko, Stephen C.	07-119	
Billing	10/10/2009 Sat	9:01AM	BJW	FILE	going over transcripts fror	Stanko, Stephen C.	07-119	
Billing	10/12/2009 Mon	11:28AM	BJW	FILE	ltr to clt sending pretrial n	Stanko, Stephen C.	07-119	
Document	10/12/2009 Mon	11:28AM	BJW	CORR	ltr to clt sending pretrial n	Stanko, Stephen C.	07-119	
Note	10/12/2009 Mon	11:30AM	CTG		phone call	Stanko, Stephen C.	07-119	N
Todo	10/13/2009 Tue	Y	BJW	DEAD	Deadline for filindg briefs	Stanko, Stephen C.	07-119	
Email	10/13/2009 Tue	1:22PM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Email	10/13/2009 Tue	2:17PM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/14/2009 Wed	3:14PM	BJW	REG	Stanko - lieber folks	Stanko, Stephen C.	07-119	
Email	10/14/2009 Wed	3:14PM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Event	10/15/2009 Thu	8:30AM	BJW	CONS	see SS at Lieber - meet @	Stanko, Stephen C.	07-119	
Email	10/15/2009 Thu	2:23PM	BJW	REG	Hermes	Stanko, Stephen C.	07-119	
Email	10/15/2009 Thu	4:43PM	BJW	REG	Stanko Motion to Argue /	Stanko, Stephen C.	07-119	
Email	10/16/2009 Fri	7:54AM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/16/2009 Fri	7:55AM	BJW	REG	person interview by Dale :	Stanko, Stephen C.	07-119	
Billing	10/16/2009 Fri	8:30AM	BJW	FILE	see SS at Lieber - meet @	Stanko, Stephen C.	07-119	
Email	10/16/2009 Fri	9:52AM	CTG	REG	State v. Stephen Stanko	Stanko, Stephen C.	07-119	
Email	10/16/2009 Fri	11:49AM	BJW	REG	Stanko Trial Defense Exp	Stanko, Stephen C.	07-119	
Email	10/16/2009 Fri	11:49AM	CTG	REG	Stanko Trial Defense Exp	Stanko, Stephen C.	07-119	
Email	10/19/2009 Mon	9:41AM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/19/2009 Mon	9:41AM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/19/2009 Mon	12:54PM	BJW	REG	Re: link	Stanko, Stephen C.	07-119	
Email	10/19/2009 Mon	3:03PM	BJW	REG	State v Stanko	Stanko, Stephen C.	07-119	
Document	10/19/2009 Mon	3:39PM	BJW	MISC	persons interviewe by Dal	Stanko, Stephen C.	07-119	N
Document	10/19/2009 Mon	3:41PM	BJW	MISC	Herme information	Stanko, Stephen C.	07-119	N
Document	10/19/2009 Mon	3:42PM	BJW	MISC	Folks to interview at Lieb	Stanko, Stephen C.	07-119	N
Email	10/19/2009 Mon	3:44PM	BJW	MISC	Dale Davis info	Stanko, Stephen C.	07-119	N
Email	10/19/2009 Mon	5:37PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Document	10/20/2009 Tue	10:58PM	BJW	REG	Stanko Motions	Stanko, Stephen C.	07-119	
Event	10/20/2009 Tue	9:42AM	BJW	ORD	Order.Expert.VChilds.at t	Stanko, Stephen C.	07-119	N
		11:00AM	BJW	CONS	meet with Vivki & Evelyr	Stanko, Stephen C.	07-119	

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Timeline Report

Date Printed: 12/01/2009
Time Printed: 10:33AM
Printed By: BRANA

Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Billing	10/20/2009 Tue	11:00AM	BJW	FILE	meet with Vivki & Evelyn	Stanko, Stephen C.	07-119	
Document	10/20/2009 Tue	11:04AM	BJW	FORM	Motion to Argue Against	Stanko, Stephen C.	07-119	N
Document	10/20/2009 Tue	11:05AM	BJW	FORM	Motion to Disclose Scient	Stanko, Stephen C.	07-119	N
Email	10/20/2009 Tue	11:06AM	BJW	REG	RE: Stanko Motions	Stanko, Stephen C.	07-119	
Document	10/20/2009 Tue	11:32AM	BJW	FORM	Affidavit for Private Inves	Stanko, Stephen C.	07-119	N
Email	10/20/2009 Tue	11:35AM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/20/2009 Tue	11:36AM	BJW	REG	RE: Stanko Motions	Stanko, Stephen C.	07-119	
Email	10/20/2009 Tue	11:36AM	CTG	REG	RE: Stanko Motions	Stanko, Stephen C.	07-119	
Email	10/20/2009 Tue	12:46PM	CTG	REG	Re: Rogers v Alford	Stanko, Stephen C.	07-119	
Email	10/20/2009 Tue	1:02PM	BJW	REG	RE: Stanko - Order for Vi	Stanko, Stephen C.	07-119	
Email	10/20/2009 Tue	3:15PM	BJW	REG	Reminder:	Stanko, Stephen C.	07-119	
Email	10/20/2009 Tue	4:16PM	BJW	REG	RE: expert orders	Stanko, Stephen C.	07-119	
Document	10/20/2009 Tue	4:53PM	BJW	ORD	Order.Expert.Turvey. mor	Stanko, Stephen C.	07-119	N
Email	10/21/2009 Wed	9:06AM	BJW	REG	Stanko - witness list from	Stanko, Stephen C.	07-119	
Email	10/21/2009 Wed	9:22AM	BJW	REG	Re: Stanko - witness list fi	Stanko, Stephen C.	07-119	
Event	10/22/2009 Thu	10:00AM	BJW	FILE	WORK ON STANKO AI	Stanko, Stephen C.	07-119	
Email	10/22/2009 Thu	10:09AM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/22/2009 Thu	10:09AM	CTG	REG	Stanko	Stanko, Stephen C.	07-119	
Document	10/22/2009 Thu	11:06AM	BJW	FORM	Affidavit.BJW.Turvey.mo	Stanko, Stephen C.	07-119	N
Email	10/22/2009 Thu	11:22AM	BJW	REG	State v Stanko - proposed	Stanko, Stephen C.	07-119	
Email	10/22/2009 Thu	11:53AM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/22/2009 Thu	11:53AM	CTG	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/22/2009 Thu	5:57PM	CTG	REG	Stanko/ Childs photos rec	Stanko, Stephen C.	07-119	
Email	10/22/2009 Thu	5:57PM	BJW	REG	Stanko/ Childs photos rec	Stanko, Stephen C.	07-119	
Todo	10/23/2009 Fri	Y	BJW	DEAD	Get ready for trial wk of 1	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	8:12AM	CTG	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	8:12AM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	8:21AM	BJW	REG	RE: State v Stanko	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	8:24AM	BJW	REG	Additional Stanko Expert	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	8:24AM	CTG	REG	Additional Stanko Expert	Stanko, Stephen C.	07-119	
Event	10/23/2009 Fri	9:30AM	BJW	CT	Courtroom 3B regarding j	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	3:40PM	BJW	REG	Order Substituting Exhibi	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	3:40PM	CTG	REG	Order Substituting Exhibi	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	4:30PM	BJW	REG	FW: Order Substituting E	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	4:36PM	CTG	REG	November Trial Roster	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	4:36PM	BJW	REG	November Trial Roster	Stanko, Stephen C.	07-119	
Document	10/23/2009 Fri	4:57PM	BJW	MISC	Trial Roster	Stanko, Stephen C.	07-119	N
Email	10/23/2009 Fri	7:57PM	CTG	REG	stanko	Stanko, Stephen C.	07-119	
Email	10/23/2009 Fri	7:57PM	BJW	REG	stanko	Stanko, Stephen C.	07-119	
Email	10/24/2009 Sat	9:37AM	CTG	REG	FW: Subpeonas for next F	Stanko, Stephen C.	07-119	
Email	10/24/2009 Sat	12:07PM	BJW	REG	RE: Order Substituting E	Stanko, Stephen C.	07-119	
Email	10/26/2009 Mon	9:25AM	BJW	REG	RE: State v. Stephen Stan	Stanko, Stephen C.	07-119	
Email	10/26/2009 Mon	9:25AM	CTG	REG	RE: State v. Stephen Stan	Stanko, Stephen C.	07-119	
Email	10/26/2009 Mon	9:58AM	BJW	REG	State v Stanko - vouchers	Stanko, Stephen C.	07-119	
Email	10/26/2009 Mon	11:41AM	BJW	REG	FW: Stanko/ Childs photo	Stanko, Stephen C.	07-119	
Email	10/26/2009 Mon	12:35PM	BJW	REG	RE: State v Stanko - vouc	Stanko, Stephen.C.	07-119	
Email	10/27/2009 Tue	4:40AM	BJW	REG	Stanko / Draft Report	Stanko, Stephen C.	07-119	
Billing	10/27/2009 Tue	4:40AM	BJW	FILE	Stanko / Draft Report	Stanko, Stephen C.	07-119	
Event	10/27/2009 Tue	9:00AM	BJW	FILE	Work on Stanko ALLDA	Stanko, Stephen C.	07-119	
Email	10/27/2009 Tue	2:06PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	10/27/2009 Tue	5:55PM	CTG	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	10/27/2009 Tue	7:38PM	CTG	REG	witness list from Dale	Stanko, Stephen C.	07-119	
Email	10/27/2009 Tue	7:38PM	BJW	REG	witness list from Dale	Stanko, Stephen C.	07-119	
Email	10/28/2009 Wed	10:33AM	BJW	REG	FW: Stanko / Draft Repor	Stanko, Stephen C.	07-119	

Timeline Report

Date Printed: 12/01/2009
Time Printed: 10:33AM
Printed By: BRANA

Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Document	10/28/2009 Wed	11:18AM	BJW	MISC	DHand.WitnessContact.St	Stanko, Stephen C.	07-119	N
Note	10/28/2009 Wed	11:24AM	CTG		phone call from Connie P	Stanko, Stephen C.	07-119	
Email	10/28/2009 Wed	1:49PM	BJW	REG	Stanko Voucher	Stanko, Stephen C.	07-119	
Email	10/28/2009 Wed	4:22PM	CTG	REG	Empaneling of the jurors	Stanko, Stephen C.	07-119	
Email	10/28/2009 Wed	4:22PM	BJW	REG	Empaneling of the jurors	Stanko, Stephen C.	07-119	
Event	10/29/2009 Thu	9:00AM	BJW	CONS	meet with Califf at WID	Stanko, Stephen C.	07-119	
Email	10/29/2009 Thu	12:40PM	CTG	REG	Juror Qualification Proces	Stanko, Stephen C.	07-119	
Email	10/29/2009 Thu	12:40PM	BJW	REG	Juror Qualification Proces	Stanko, Stephen C.	07-119	
Email	10/29/2009 Thu	2:08PM	BJW	REG	State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/29/2009 Thu	2:08PM	CTG	REG	State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/29/2009 Thu	3:23PM	CTG	REG	RE: Stanko Voucher	Stanko, Stephen C.	07-119	
Email	10/29/2009 Thu	3:23PM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Event	10/30/2009 Fri	9:30AM	BJW	CT	Courtoom 3B regarding r	Stanko, Stephen C.	07-119	
Billing	10/30/2009 Fri	9:30AM	BJW	FILE	Courtoom 3B regarding r	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	11:31AM	CTG	REG	evidence	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	11:31AM	BJW	REG	evidence	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	11:51AM	BJW	REG	RE: State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	11:51AM	CTG	REG	RE: State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	1:13PM	BJW	REG	FW: State v. Stanko	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	2:49PM	BJW	REG	State v Stanko - Voucher	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	5:53PM	BJW	REG	RE: State v Stanko - Vouc	Stanko, Stephen C.	07-119	
Email	10/30/2009 Fri	8:58PM	BJW	REG	contacts - Boland, brooks	Stanko, Stephen C.	07-119	
Billing	10/31/2009 Sat	9:30AM	BJW	FILE	review evidence trial & pr	Stanko, Stephen C.	07-119	
Email	10/31/2009 Sat	12:11PM	BJW	REG	Genetic defense	Stanko, Stephen C.	07-119	
Email	11/01/2009 Sun	8:49PM	BJW	DOC	Stanko - second draft	Stanko, Stephen C.	07-119	
Billing	11/01/2009 Sun	8:49PM	BJW	FILE	Stanko - second draft - rev	Stanko, Stephen C.	07-119	
Event	11/02/2009 Mon	8:00AM	BJW	FILE	Work on Stanko - ALL D.	Stanko, Stephen C.	07-119	
Billing	11/02/2009 Mon	9:36AM	BJW	EMAL	FW: Stanko - second draft	Stanko, Stephen C.	07-119	
Email	11/02/2009 Mon	9:36AM	BJW	REG	FW: Stanko - second draft	Stanko, Stephen C.	07-119	
Email	11/02/2009 Mon	12:12PM	BJW	REG	State v. Stanko Blair Hear	Stanko, Stephen C.	07-119	
Email	11/02/2009 Mon	12:12PM	CTG	REG	State v. Stanko Blair Hear	Stanko, Stephen C.	07-119	
Billing	11/02/2009 Mon	12:12PM	BJW	EMAL	State v. Stanko Blair Hear	Stanko, Stephen C.	07-119	
Email	11/02/2009 Mon	3:47PM	BJW	REG	RE: State v Stanko - Vouc	Stanko, Stephen C.	07-119	
Email	11/02/2009 Mon	5:10PM	BJW	REG	RE: State v Stanko - Vouc	Stanko, Stephen C.	07-119	
Billing	11/02/2009 Mon	5:10PM	BJW	EMAL	RE: State v Stanko - Vouc	Stanko, Stephen C.	07-119	
Billing	11/02/2009 Mon	9:35PM	BJW	FILE	Trial notebook prep, conv	Stanko, Stephen C.	07-119	
Billing	11/03/2009 Tue	8:00AM	BJW	FILE	Trial notebook prep, conv	Stanko, Stephen C.	07-119	
Event	11/03/2009 Tue	8:00AM	BJW	FILE	Work on Stanko - ALL D.	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	8:37AM	BJW	REG	RE: Stanko - second draft	Stanko, Stephen C.	07-119	
Billing	11/03/2009 Tue	10:13AM	BJW	EXP	copies of previous transcr	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	10:20AM	CTG	REG	State's Potential Witness I	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	2:17PM	CTG	REG	RE: State v. Stephen Stan	Stanko, Stephen C.	07-119	
Billing	11/03/2009 Tue	2:25PM	BJW	FILE	ltr to SCID to send payme	Stanko, Stephen C.	07-119	
Document	11/03/2009 Tue	2:25PM	CTG	CORR	ltr to SCID to send payme	Stanko, Stephen C.	07-119	N
Email	11/03/2009 Tue	3:07PM	CTG	REG	Stanko Crime Scene Repo	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	3:07PM	BJW	REG	Stanko Crime Scene Repo	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	4:36PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	5:49PM	BJW	REG	Stanko - DVD - dale's slid	Stanko, Stephen C.	07-119	
Billing	11/03/2009 Tue	5:49PM	BJW	FILE	Stanko - DVD - dale's slid	Stanko, Stephen C.	07-119	
Billing	11/03/2009 Tue	6:07PM	BJW	EMAL	hey	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	6:07PM	BJW	REG	hey	Stanko, Stephen C.	07-119	
Email	11/03/2009 Tue	6:07PM	CTG	REG	hey	Stanko, Stephen C.	07-119	
Billing	11/04/2009 Wed	8:00AM	BJW	FILE	finish trial workbooks, get	Stanko, Stephen C.	07-119	
Event	11/04/2009 Wed	8:00AM	BJW	FILE	Work on Stanko - ALL D.	Stanko, Stephen C.	07-119	

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Date Printed: 12/01/2009
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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Document	11/04/2009 Wed	9:06AM	BJW	CORR	Letter to Dr. Wu - transcri	Stanko, Stephen C.	07-119	N
Event	11/04/2009 Wed	10:00AM	BJW	CONF	meet Pam Crawford at cot	Stanko, Stephen C.	07-119	
Billing	11/04/2009 Wed	10:00AM	BJW	FILE	meet Pam Crawford at cot	Stanko, Stephen C.	07-119	
Document	11/04/2009 Wed	10:40AM	CTG	CORR	ltr dr. sachy sending tesim	Stanko, Stephen C.	07-119	N
Event	11/04/2009 Wed	10:44AM	BJW	CT	continuation of 11-3	Stanko, Stephen C.	07-119	
Document	11/04/2009 Wed	10:53AM	CTG	CORR	ltr to Dr. Thrasher sending	Stanko, Stephen C.	07-119	N
Document	11/04/2009 Wed	10:57AM	CTG	CORR	ltr to Dr. Albiniak for testi	Stanko, Stephen C.	07-119	N
Billing	11/04/2009 Wed	11:31AM	CTG	CORR	ltr to Dr. Wu sending testi	Stanko, Stephen C.	07-119	N
Billing	11/04/2009 Wed	11:31AM	BJW	FILE	evidence	Stanko, Stephen C.	07-119	
Billing	11/04/2009 Wed	11:51AM	BJW	FILE	RE: State v. Stanko	Stanko, Stephen C.	07-119	
Billing	11/04/2009 Wed	2:00PM	BJW	FILE	Blair Hearing * finish jurc	Stanko, Stephen C.	07-119	
Event	11/04/2009 Wed	2:00PM	BJW	CT	Blair Hearing * finish jurc	Stanko, Stephen C.	07-119	
Document	11/04/2009 Wed	3:25PM	CTG	CORR	ltr to dr. einhorn sending t	Stanko, Stephen C.	07-119	N
Billing	11/04/2009 Wed	3:25PM	CTG	EXP	3 overnights/UPS @ $20.(	Stanko, Stephen C.	07-119	
Email	11/04/2009 Wed	7:23PM	BJW	REG	hey - witnesses	Stanko, Stephen C.	07-119	
Email	11/04/2009 Wed	7:23PM	CTG	REG	hey	Stanko, Stephen C.	07-119	
Email	11/04/2009 Wed	8:28PM	CTG	REG	interview with Jeff STank	Stanko, Stephen C.	07-119	
Email	11/04/2009 Wed	8:28PM	BJW	REG	interview with Jeff STank	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	7:59AM	BJW	REG	State v. Stanko	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	7:59AM	BJW	FILE	State v. Stanko	Stanko, Stephen C.	07-119	
Event	11/05/2009 Thu	8:00AM	BJW	FILE	Work on Stanko - ALL D.	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	8:07AM	BJW	FILE	witness list	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	8:07AM	BJW	REG	witness list	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	8:37AM	BJW	EMAL	RE: Stanko - second draft	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	8:45AM	BJW	FILE	Witness list; Vicki Order;	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	8:45AM	CTG	REG	Witness list; Vicki Order;	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	8:45AM	BJW	REG	Witness list; Vicki Order;	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	9:00AM	BJW	FILE	stanko - trial prep for witn	Stanko, Stephen C.	07-119	
Document	11/05/2009 Thu	9:01AM	BJW	MISC	VChilds - interview - Jeff,	Stanko, Stephen C.	07-119	N
Billing	11/05/2009 Thu	9:03AM	BJW	FILE	FW: interview with Jeff S'	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	9:03AM	BJW	REG	FW: interview with Jeff S'	Stanko, Stephen C.	07-119	
Document	11/05/2009 Thu	9:05AM	BJW	MISC	Brian Wilson	Stanko, Stephen C.	07-119	N
Document	11/05/2009 Thu	9:05AM	BJW	MISC	Memo to WID - docs sen	Stanko, Stephen C.	07-119	N
Document	11/05/2009 Thu	9:07AM	BJW	MISC	Missing Items & Hypogn	Stanko, Stephen C.	07-119	N
Billing	11/05/2009 Thu	9:08AM	BJW	EMAL	FW: hey	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	9:08AM	BJW	REG	FW: hey	Stanko, Stephen C.	07-119	
Document	11/05/2009 Thu	9:22AM	BJW	MISC	State's Potentail Witness l	Stanko, Stephen C.	07-119	N
Billing	11/05/2009 Thu	9:34AM	BJW	FILE	FW: contacts	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	9:34AM	BJW	REG	FW: contacts	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	9:50AM	BJW	DOC	Defendnat's Potentail Witı	Stanko, Stephen C.	07-119	
Document	11/05/2009 Thu	9:50AM	BJW	MISC	Defeadnat's Potentail Wit	Stanko, Stephen C.	07-119	N
Billing	11/05/2009 Thu	9:52AM	BJW	FILE	Invoice from Blazer Inves	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	9:52AM	CTG	REG	Invoice from Blazer Inves	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	9:52AM	BJW	REG	Invoice from Blazer Inves	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	9:58AM	BJW	REG	potential witness list	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	9:58AM	BJW	EMAL	potential witness list	Stanko, Stephen C.	07-119	
Event	11/05/2009 Thu	10:00AM	BJW	CT	Witness list to Ct & confe	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	10:13AM	BJW	EMAL	Exhibit list	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	10:13AM	BJW	REG	Exhibit list	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	10:13AM	CTG	REG	Exhibit list	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	10:15AM	BJW	REG	FW: Invoice from Blazer :	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	10:16AM	BJW	DOC	Defendant's Potential Exh	Stanko, Stephen C.	07-119	
Document	11/05/2009 Thu	10:16AM	BJW	MISC	Defendant's Potential Exh	Stanko, Stephen C.	07-119	N
Billing	11/05/2009 Thu	10:21AM	BJW	FILE	potential exhibt list	Stanko, Stephen C.	07-119	

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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Email	11/05/2009 Thu	10:21AM	BJW	REG	potential exhibit list	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	10:40AM	CTG	FILE	ltr dr. sachy sending tesim	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	10:53AM	CTG	FILE	ltr to Dr. Thrasher sending	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	10:57AM	CTG	FILE	ltr to Dr. Albiniak for testi	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	11:31AM	BJW	DOC	ltr to Dr. Wu sending testi	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	12:46PM	BJW	REG	Stanko witness lists - com	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	12:46PM	CTG	REG	Stanko witness lists - com	Stanko, Stephen C.	07-119	
Email	11/05/2009 Thu	2:08PM	BJW	FILE	State v. Stanko - phone ca	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	2:26PM	BJW	REG	Peggy Klisz	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	3:07PM	BJW	FILE	Stanko Crime Scene Repo	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	3:23PM	BJW	EMAL	RE: Stanko	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	3:25PM	BJW	DOC	ltr to dr. einhorn sending t	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	3:47PM	BJW	EMAL	RE: State v Stanko - Vou	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	4:36PM	BJW	EMAL	Stanko	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	5:53PM	BJW	EMAL	RE: State v Stanko - Vou	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	7:23PM	BJW	EMAL	hey - witnesses	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	7:57PM	BJW	EMAL	stanko	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	8:28PM	BJW	EMAL	interview with Jeff STank	Stanko, Stephen C.	07-119	
Billing	11/05/2009 Thu	8:58PM	BJW	EMAL	contacts - Boland, brooks	Stanko, Stephen C.	07-119	
Event	11/06/2009 Fri	8:00AM	BJW	FILE	Work on Stanko - ALL D.	Stanko, Stephen C.	07-119	
Billing	11/06/2009 Fri	9:00AM	BJW	COUR	In court & prep time	Stanko, Stephen C.	07-119	
Billing	11/06/2009 Fri	10:12AM	BJW	FILE	ltr to Clarise Wenz and su	Stanko, Stephen C.	07-119	
Document	11/06/2009 Fri	10:12AM	CTG	CORR	ltr to Clarise Wenz and su	Stanko, Stephen C.	07-119	
Document	11/06/2009 Fri	10:15AM	CTG	CORR	ltr to Barbara Boland and	Stanko, Stephen C.	07-119	N
Billing	11/06/2009 Fri	10:15AM	BJW	FILE	ltr to Barbara Boland and	Stanko, Stephen C.	07-119	N
Billing	11/06/2009 Fri	10:23AM	BJW	FILE	ltr to Bryan Wilson and st	Stanko, Stephen C.	07-119	
Document	11/06/2009 Fri	10:23AM	CTG	CORR	ltr to Bryan Wilson and st	Stanko, Stephen C.	07-119	
Document	11/06/2009 Fri	10:24AM	CTG	CORR	ltr to Wanda Brooks and s	Stanko, Stephen C.	07-119	N
Billing	11/06/2009 Fri	10:24AM	BJW	FILE	ltr to Wanda Brooks and s	Stanko, Stephen C.	07-119	N
Billing	11/06/2009 Fri	10:25AM	BJW	FILE	ltr John Fulmer and subpc	Stanko, Stephen C.	07-119	
Document	11/06/2009 Fri	10:25AM	CTG	CORR	ltr John Fulmer and subpc	Stanko, Stephen C.	07-119	
Document	11/06/2009 Fri	10:52AM	CTG	CORR	ltr to Vickie Childs sendir	Stanko, Stephen C.	07-119	N
Billing	11/06/2009 Fri	10:52AM	BJW	FILE	ltr to Vickie Childs sendir	Stanko, Stephen C.	07-119	N
Billing	11/06/2009 Fri	10:53AM	BJW	EXP	ups to Vicki Childs sendit	Stanko, Stephen C.	07-119	
Email	11/06/2009 Fri	3:13PM	BJW	REG	Stanko - State's Witness l	Stanko, Stephen C.	07-119	
Email	11/06/2009 Fri	7:52PM	BJW	REG	SC v. Stanko/ Final Repo	Stanko, Stephen C.	07-119	
Billing	11/07/2009 Sat	11:00AM	BJW	FILE	Met with Bill Diggs to go	Stanko, Stephen C.	07-119	
Email	11/07/2009 Sat	3:10PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Email	11/09/2009 Mon	8:10AM	BJW	REG	FW: SC v. Stanko/ Final I	Stanko, Stephen C.	07-119	
Billing	11/09/2009 Mon	8:15AM	BJW	REG	RE: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Email	11/09/2009 Mon	9:00AM	BJW	COUR	In Court & prep time	Stanko, Stephen C.	07-119	
Email	11/09/2009 Mon	1:28PM	CTG	REG	Re: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Billing	11/09/2009 Mon	1:28PM	BJW	REG	Re: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Document	11/09/2009 Mon	1:58PM	BJW	FILE	ltr and subpoena Dr. Spic	Stanko, Stephen C.	07-119	
Document	11/09/2009 Mon	1:58PM	CTG	CORR	ltr and subpoena Dr. Spic	Stanko, Stephen C.	07-119	
Document	11/09/2009 Mon	2:29PM	CTG	CORR	ltr to VC - OV for hd of l	Stanko, Stephen C.	07-119	N
Billing	11/09/2009 Mon	2:38PM	CTG	CORR	ltr to VC - ON - HD ltr to	Stanko, Stephen C.	07-119	N
Event	11/10/2009 Tue	8:00AM	BJW	FILE	ltr to VC - ON - HD ltr to	Stanko, Stephen C.	07-119	N
Event	11/10/2009 Tue	8:00AM	BJW	CT	Trial to start and go throu	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	8:07AM	BJW	CT	trial	Stanko, Stephen C.	07-119	
Billing	11/10/2009 Tue	9:00AM	BJW	REG	RE: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	9:32AM	CTG	COUR	In Court & prep time	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	9:42AM	CTG	REG	Confirmation Letter - FIR	Stanko, Stephen C.	07-119	
				REG	Alaska/Horizon Airlines i	Stanko, Stephen C.	07-119	

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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Email	11/10/2009 Tue	1:01PM	CTG	REG	Re: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	2:26PM	CTG	REG	Re: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	3:47PM	BJW	REG	RE: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	3:52PM	CTG	REG	Re: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Billing	11/10/2009 Tue	3:53PM	BJW	EXP	Turvey flight for trial	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	4:31PM	CTG	REG	Re: SC v. Stanko/ Final R	Stanko, Stephen C.	07-119	
Email	11/10/2009 Tue	9:41PM	CTG	REG	interviews	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	2:32AM	CTG	REG	SC v. Stanko/ Presentatio	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	2:32AM	BJW	REG	SC v. Stanko/ Presentatio	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	6:09AM	CTG	REG	Richard Long	Stanko, Stephen C.	07-119	
Billing	11/11/2009 Wed	6:09AM	BJW	REG	Richard Long	Stanko, Stephen C.	07-119	
Billing	11/11/2009 Wed	8:00AM	BJW	FILE	Meet with Stanko	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	8:00AM	BJW	FILE	Trip with Bill Diggs to se	Stanko, Stephen C.	07-119	
Document	11/11/2009 Wed	8:21AM	BJW	REG	FW: interviews	Stanko, Stephen C.	07-119	
Document	11/11/2009 Wed	8:39AM	CTG	FORM	Brent Turvey Report	Stanko, Stephen C.	07-119	
Document	11/11/2009 Wed	8:41AM	CTG	FORM	Inverview - VC with Cind	Stanko, Stephen C.	07-119	N
Document	11/11/2009 Wed	8:46AM	CTG	FORM	Interview - VC with Davi	Stanko, Stephen C.	07-119	N
Billing	11/11/2009 Wed	8:47AM	CTG	FORM	Interview VC with Bryan	Stanko, Stephen C.	07-119	N
Billing	11/11/2009 Wed	9:00AM	BJW	FILE	Brana and Bill to go to LC	Stanko, Stephen C.	07-119	N
Billing	11/11/2009 Wed	9:00AM	BJW	COUR	Court	Stanko, Stephen C.	07-119	
Billing	11/11/2009 Wed	10:57AM	BJW	FILE	Copy of Motion to Lift O	Stanko, Stephen C.	07-119	
Billing	11/11/2009 Wed	3:04PM	BJW	FILE	Ltr regarding Scheduling	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	3:42PM	BJW	FILE	Transmittal of Stanko Let	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	4:09PM	CTG	REG	Turvey/ Updated CV	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	6:46PM	CTG	REG	Turvey report/ corrected/	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	8:03PM	BJW	REG	jury	Stanko, Stephen C.	07-119	
Email	11/11/2009 Wed	8:03PM	CTG	REG	jury	Stanko, Stephen C.	07-119	
Billing	11/12/2009 Thu	7:00AM	BJW	FILE	Computer work/research	Stanko, Stephen C.	07-119	
Email	11/12/2009 Thu	7:45AM	CTG	REG	bill mcquire	Stanko, Stephen C.	07-119	
Email	11/12/2009 Thu	7:45AM	BJW	REG	bill mcquire	Stanko, Stephen C.	07-119	
Document	11/12/2009 Thu	7:55AM	CTG	FORM	Turvey revised report. 11.	Stanko, Stephen C.	07-119	N
Email	11/12/2009 Thu	7:58AM	CTG	REG	RE: Stanko DP Trial	Stanko, Stephen C.	07-119	
Billing	11/12/2009 Thu	9:00AM	BJW	COUR	pre-trial & in Court	Stanko, Stephen C.	07-119	
Email	11/12/2009 Thu	10:52AM	CTG	REG	RE: Stanko DP Trial	Stanko, Stephen C.	07-119	
Billing	11/12/2009 Thu	3:53PM	BJW	EXP	dry cleaning for Stanko's	Stanko, Stephen C.	07-119	
Email	11/12/2009 Thu	8:05PM	BJW	REG	Re: Turvey report/ correct	Stanko, Stephen C.	07-119	
Email	11/12/2009 Thu	8:05PM	CTG	REG	Re: Turvey report/ correct	Stanko, Stephen C.	07-119	
Billing	11/13/2009 Fri	7:30AM	BJW	COUR	pre-trial prep & Court	Stanko, Stephen C.	07-119	
Email	11/13/2009 Fri	7:51AM	BJW	REG	FW: Turvey report/ correc	Stanko, Stephen C.	07-119	
Billing	11/13/2009 Fri	3:53PM	BJW	EXP	dinner for Turvey & Chi	Stanko, Stephen C.	07-119	
Billing	11/13/2009 Fri	5:30PM	BJW	MEET	Meeting with Brent Turve	Stanko, Stephen C.	07-119	
Billing	11/14/2009 Sat	7:30AM	BJW	COUR	pre-trial & in Court	Stanko, Stephen C.	07-119	
Billing	11/14/2009 Sat	3:53PM	BJW	EXP	dinner for Turvey & Gur	Stanko, Stephen C.	07-119	
Billing	11/14/2009 Sat	5:30PM	BJW	MEET	Meeting with Dr. Gur regi	Stanko, Stephen C.	07-119	
Email	11/14/2009 Sat	7:08PM	CTG	REG	Confirmation Letter - FIR	Stanko, Stephen C.	07-119	
Email	11/14/2009 Sat	7:08PM	CTG	REG	Confirmation Letter - FIR	Stanko, Stephen C.	07-119	
Email	11/14/2009 Sat	9:28PM	CTG	REG	reports from Evelyn	Stanko, Stephen C.	07-119	
Email	11/14/2009 Sat	9:28PM	BJW	REG	reports from Evelyn	Stanko, Stephen C.	07-119	
Email	11/14/2009 Sat	9:57PM	CTG	REG	Evelyn's documents	Stanko, Stephen C.	07-119	
Billing	11/15/2009 Sun	7:30AM	BJW	REG	Evelyn's documents	Stanko, Stephen C.	07-119	
Email	11/15/2009 Sun	7:53AM	BJW	COUR	pre-trial & in Court	Stanko, Stephen C.	07-119	
Email	11/15/2009 Sun	3:44PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Billing	11/16/2009 Mon	8:30AM	BJW	REG	Re: Stanko	Stanko, Stephen C.	07-119	
				COUR	pre-trial & in Court	Stanko, Stephen C.	07-119	

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Type	Date	Time	Staff	Code	Description	File Reference	File No.	Status
Email	11/16/2009 Mon	1:49PM	BJW	REG	Final invoice/ SC v. Stank	Stanko, Stephen C.	07-119	
Email	11/16/2009 Mon	1:49PM	CTG	REG	Final invoice/ SC v. Stank	Stanko, Stephen C.	07-119	
Email	11/16/2009 Mon	3:42PM	CTG	REG	Re: Stanko	Stanko, Stephen C.	07-119	
Email	11/16/2009 Mon	3:42PM	BJW	REG	Re: Stanko	Stanko, Stephen C.	07-119	
Email	11/16/2009 Mon	10:06PM	BJW	REG	Re: Stanko	Stanko, Stephen C.	07-119	
Email	11/17/2009 Tue	9:01AM	BJW	REG	RE: Stanko	Stanko, Stephen C.	07-119	
Email	11/17/2009 Tue	9:07AM	CTG	REG	RE: State v Stanko update	Stanko, Stephen C.	07-119	
Email	11/17/2009 Tue	9:09AM	CTG	REG	Re: State v Stanko update	Stanko, Stephen C.	07-119	
Billing	11/17/2009 Tue	10:00AM	BJW	MEET	Meeting with Bill Diggs, '	Stanko, Stephen C.	07-119	
Email	11/17/2009 Tue	12:10PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Billing	11/17/2009 Tue	3:30PM	BJW	MEET	Travel to and from the jail	Stanko, Stephen C.	07-119	
Email	11/17/2009 Tue	8:42PM	CTG	REG	Fwd: Fw: Capital Trial in	Stanko, Stephen C.	07-119	
Billing	11/18/2009 Wed	8:30AM	BJW	COUR	pre-trial & in Court	Stanko, Stephen C.	07-119	
Email	11/18/2009 Wed	2:54PM	BJW	REG		Stanko, Stephen C.	07-119	
Email	11/18/2009 Wed	2:54PM	CTG	REG		Stanko, Stephen C.	07-119	
Billing	11/18/2009 Wed	5:30PM	BJW	FILE	In office after court worki	Stanko, Stephen C.	07-119	
Email	11/18/2009 Wed	9:14PM	CTG	REG	Beardsley	Stanko, Stephen C.	07-119	
Email	11/18/2009 Wed	9:14PM	BJW	REG	Beardsley	Stanko, Stephen C.	07-119	
Billing	11/19/2009 Thu	7:30AM	BJW	FILE	pre-trial pre & in court	Stanko, Stephen C.	07-119	
Email	11/20/2009 Fri	11:21AM	CTG	REG	hey	Stanko, Stephen C.	07-119	
Email	11/20/2009 Fri	4:20PM	CTG	REG	Re: Stanko	Stanko, Stephen C.	07-119	
Email	11/23/2009 Mon	9:26AM	BJW	REG	post- trial motions	Stanko, Stephen C.	07-119	
Email	11/23/2009 Mon	1:31PM	CTG	REG	RE: post- trial motions	Stanko, Stephen C.	07-119	
Email	11/23/2009 Mon	1:31PM	BJW	REG	RE: post- trial motions	Stanko, Stephen C.	07-119	
Email	11/23/2009 Mon	4:18PM	CTG	REG	Re: Stanko - final invoice	Stanko, Stephen C.	07-119	
Email	11/23/2009 Mon	4:18PM	BJW	REG	Re: Stanko - final invoice	Stanko, Stephen C.	07-119	
Email	11/23/2009 Mon	4:19PM	CTG	REG	Invoice from Blazer Inves	Stanko, Stephen C.	07-119	
Email	11/23/2009 Mon	4:19PM	BJW	REG	Invoice from Blazer Inves	Stanko, Stephen C.	07-119	
Email	11/25/2009 Wed	9:03AM	BJW	REG	Post trial motions	Stanko, Stephen C.	07-119	
Email	11/25/2009 Wed	9:22AM	BJW	REG	Stanko Post Trial Motions	Stanko, Stephen C.	07-119	
Document	11/25/2009 Wed	9:33AM	BJW	CORR	Letter to J John.expertvou	Stanko, Stephen C.	07-119	N
Email	11/25/2009 Wed	11:09AM	BJW	REG	Witness milage - Stanko	Stanko, Stephen C.	07-119	
Email	11/25/2009 Wed	4:50PM	BJW	REG	Re: Witness milage - Stan	Stanko, Stephen C.	07-119	
Email	11/30/2009 Mon	11:03AM	CTG	REG	stanko	Stanko, Stephen C.	07-119	
Email	11/30/2009 Mon	11:03AM	BJW	REG	stanko	Stanko, Stephen C.	07-119	
Email	11/30/2009 Mon	1:38PM	BJW	REG	RE: stanko	Stanko, Stephen C.	07-119	
Email	11/30/2009 Mon	1:45PM	BJW	REG	Stanko	Stanko, Stephen C.	07-119	
Document	11/30/2009 Mon	4:25PM	BJW	INV	11/30/2009 Invoice # 181	Stanko, Stephen C.	07-119	N
Document	12/01/2009 Tue	10:18AM	BJW	INV	12/01/2009 Invoice # 182	Stanko, Stephen C.	07-119	N
Document	12/01/2009 Tue	10:30AM	BJW	INV	12/01/2009 Invoice # 182	Stanko, Stephen C.	07-119	N

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@sccid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

County: Horry	List All Case Numbers (GS, CP, JU or Arrest Warrant Numbers): 05-GS-26-2927
Client's Full Name: Stephen C. Stanko	
Last Known Address (Prior to Incarceration): Murrells Inlet, S.C.	List All Charges With CDR Code: Murder- 116
Voucher Submitted Under Seal? ☐ YES ☒ NO	Previous Vouchers Submitted For This Client at this level (Trial or Appeal)? [Mistrial/Retrial are considered new cases] ☒ YES ☐ NO
Type of Cases (Most Serious Charge): ☒ Death Penalty ☐ Felony ☐ Misdemeanor ☐ Juvenile ☐ Status Offense ☐ PCR ☐ Capital PCR ☐ Capital Appeal ☐ Non Capital Appeal ☐ SVP ☐ Other	

Pursuant to the most current and applicable S.C. law, claim is hereby made for compensation, reimbursement, or is certified by the Public Defender for representation of the above named as set out below.

ATTORNEYS' FEES

NON DEATH PENALTY CASE FEES		
	Hours at $40.00 per hour for Out-of-Court services	$
	Hours at $60.00 per hour for In-Court services (Restricted to actual hearing times)	$
DEATH PENALTY CASE FEES		
	Hours at $50.00 per hour for Out-of-Court services	$
	Hours at $75.00 per hour for In-Court services (Restricted to actual hearing times)	$
	TOTAL FEES:	$

MAXIMUM FEE ALLOWED IS $25,000 per attorney in Death Penalty cases, $3,500 in Felony cases, $1,000 in Misdemeanor and PCR cases, and $1,750 in SVP cases.

EXPENSES

Long Distance Telephone Calls	$
Psychiatric Examination *	$
Expert Witness(es) * Brent Turner $7020.00 Dr Gurr 9,028.24	$ 16,048.24
Investigative Services * Vicki Childs 8,806.90	$ ~~8,836.24~~ 8806.90
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

$24,855.14

* REQUIRES PRE APPROVAL FROM THE COURT. ATTACH ORIGINAL OR CERTIFIED COPY OF ORDER GRANTING PRIOR APPROVAL OF COURT — ORDER MUST STATE MAXIMUM EXPENSE ALLOWABLE WITHOUT SUBSEQUENT ORDER. EXPENSES MUST BE APPROVED PRIOR TO BEING INCURRED IN ORDER TO BE PAID. ALL EXPENSES ARE NOT REIMBURSABLE! Please read instructions on what expenses are reimbursable.

TOTAL EXPENSES: (Attach copies of all bills with explanation of expense and Court Orders allowing expenditure where required.) $ 24,884.48

MAXIMUM EXPENSES allowed are $20,000 in Death Penalty cases and $500 in all other cases.

Less amount paid by Defendant or by any person on Defendant's behalf. $

TOTAL FEES AND EXPENSES REQUESTED ON THIS VOUCHER: $

☐ Advance payment. Date of request for funds (Approval Order attached): _____, 20___

☐ Final submission; no further requests for funds. Date case concluded: _____, 20___

Method of Disposition: ☐ Plea ☐ Trial: ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: Brana	Attorney's Signature:
Check Applicable Category: ☐ Public Defender ☒ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee:
(Also, Please Provide a valid Email Address)
Brana J. Williams
Williams Law Firm, LLC
1115 3rd Ave
Conway, SC 29526
williamslawfirm@sc.rr.com

SS or F.E.I. Number: [redacted] TELEPHONE NUMBER: 843-248-5100

APPROVED BY:
Trial Judge's Signature:
Court or Circuit: 15th Circuit
Date Approved: 8/4/10

CERTIFIED BY:
Clerk of Court's Signature:
Clerk of Court For (County):
Date Certified:

OID FILE NO.:

AGENCY VOUCHER NO.: ~~4733~~ 4092

OCT 0 9 2009

Brent E. Turvey, MS
Forensic Solutions, LLC
P.O. Box 2175
Sitka, Alaska 99835
Ph# (907) 747-5121; Fx# (800) 641-2839

Stanko

Invoice No. 09-1007

INVOICE

Customer

Name	Atty Brana J. Williams, Williams Law Firm, LLC
Address	1115 Third Avenue
City	Conway State SC ZIP 29526
Phone	Ph: 843-248-5100; Fx: 843-248-5103

Date	10/7/09
Case No.	SC v. S. Stanko
Terms	Due on reciept

Hours	Description	Rate	TOTAL
20	20 hours spent examining case material related to SC v. Stephen C. Stanko. This includes examining crime scene related discovery, interviews, and photos: 2000+ pages of discovery, witness and suspect interviews, and crime sene /Autopsy photos between September 18 and October 3, 3009.	$195.00	$3,900.00
2	2 hrs travel time to Conway, SC from Sitka, Alaska; 10/4/09	$195.00	$390.00
8	8 hrs pretrial meeting and evidence viewing with attorneys Brana Williams and William Diggs, and investigator Vicki Childs; 10/5/09	$195.00	$1,560.00
8	8 hrs pretrial meeting and crime scene visit with attorneys Brana Williams and William Diggs, and investigator Vicki Childs; 10/6/09	$195.00	$1,560.00
2	2 hrs travel time from Conway, SC to Sitka, Alaska; 10/7/09	195.00	$390.00

EIN#: 20-1873209

SubTotal $7,800.00

TOTAL $7,800.00

Payment Details

- Cash
- ● Check
- Credit Card

Name
CC #
Expires

Please make payment via check to Forensic Solutions, with "USD" after the amount.

DEFENSE OF INDIGENTS VOUCHER

NOTICE: Please complete voucher including FULL NAME and LAST KNOWN NONINCARCERATED ADDRESS OF DEFENDANT, and attach your detailed time sheet, Order of Appointment, and Notice of Intent to Seek Death Penalty, Order allowing expenses, bills for expenses, and any other supporting documentation, if required. Deliver this complete package to the trial judge for approval and then to the Clerk of Court for certification. If more than one attorney was appointed, submit a single voucher signed by both attorneys. IF YOU HAVE A QUESTION AS TO WHETHER AN EXPENSE WILL BE REIMBURSED, PLEASE CONTACT THE COMMISSION ON INDIGENT DEFENSE AT 803.734.1343, FAX: 803.734.1345, e-mail: executive@sccid.sc.gov, BEFORE INCURRING THAT EXPENSE. Once the voucher has been approved by the trial judge and certified by the Clerk of Court, submit the ORIGINAL VOUCHER: South Carolina Commission on Indigent Defense mailing address, P.O. Box 11433, Columbia, SC 29211. For overnight deliveries, send to street address: 1330 Lady Street, Suite 401, Columbia, SC 29201. Please insure that all supporting documentation is included and that all parts of this voucher are completed. Entries must be typed or legibly printed to be accepted. Orders submitted for expenses and payments exceeding the maximum allowed by statute must be either the original or a certified copy. YOU MUST SUBMIT THE ORIGINAL SIGNED VOUCHER. INCOMPLETE VOUCHERS AND DOCUMENTATION WILL BE RETURNED. NOTE: All vouchers must be received by the Office of Indigent Defense in correct form not later than THIRTY (30) DAYS after services were completed, but in no event later than June 30th of the year services were completed, in order to be paid.

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Psychiatric Examination *	$
Expert Witness(es) * Brant Turner $1020.00 - In Court # 9,028.24	$ 16,048.24
Investigative Services * Vicki Childs # 8,806.90	$ ~~8,836.24~~ 8806.90
Extraordinary Travel Expenses *	$
Advanced Payment For Expenses *	$
Other Expenses (Explain) *	$

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☐ Final submission; no further requests for funds. Date case concluded: _____, 20 ___

Method of Disposition: ☐ Plea ☐ Trial: ☐ Acquittal ☐ Guilty Verdict ☐ Mistrial ☐ Dismissal ☐ Other

This is a true and correct statement of my service to and expenses for the above named Defendant.

Attorney's Signature: Brana	Attorney's Signature:
Check Applicable Category: ☐ Public Defender ☒ Private Attorney	Check Applicable Category: ☐ Public Defender ☐ Private Attorney

CHECK WILL BE MADE PAYABLE AND MAILED TO ONLY ONE ATTORNEY, FIRM OR PUBLIC DEFENDER CORPORATION AS REQUESTED BELOW. SOCIAL SECURITY OR F.E.I. NUMBER MUST BE INCLUDED.

Name and Address of Check Payee: Brana J. Williams
Williams Law Firm, LLC
1115 3rd Ave
Conway SC 29526

(Also, Please Provide a valid Email Address) Williamslawfirm@sc.rr.com

SS or F.E.I. Number: [redacted]

TELEPHONE NUMBER: 843-248-5100

APPROVED BY:

Trial Judge's Signature

Court Circuit: 15th Circuit

Date Approved: 8/4/10

CERTIFIED BY:

Clerk of Court's Signature

Clerk of Court For (County):

Date Certified:

OID FILE NO.:

AGENCY VOUCHER NO.: 4735 4092

CID FORM 100 (10/02) Local Duplication is Authorized

PREVIOUS VERSIONS OF THIS FORM ARE OBSOLETE AFTER 12/31/02

Ruben C. Gur PhD ABPP/CN
NeuroForensics Consultants
815 Saint George's Rd.
Philadelphia, PA 19119

(215)247-2716
neuroforensics@gmail.com

November 16, 2009

Brana or Johana
williamslawfirm@sc.rr.com

Dear Brana,

Below is an invoice for time and expenses spent traveling to testify in Mr. Stanko's trial. Please let me know if you have any questions.

RE: Mr. Steven Stanko

INVOICE

Date	Activity	Hours	Rate	Total
11/13/09	prep for testimony	3.5	400	$1,400.00
11/14/09	prep for testimony	7	400	$2,800.00
11/14/09	Travel	4	175	$700.00
11/15/09	prep for testimony	2	400	$800.00
11/15/09	Testimony & court	3	450	$1,350.00
11/15/09	Travel	8	175	$1,400.00
Total HOURLY		**27.50**		**$8,450.00**
11/14/09	Airfare		$543.80	
11/15/09	Lunch		$5.44	
11/15/09	PHL Parking		$29.00	
Total EXPENSES			$578.24	
Total INVOICE				$9,028.24

Sincerely,

Ruben C. Gur, PhD

Payment due within 30 days of invoice date. Please remit one copy of invoice with payment.

Please make check payable to:
Ruben C. Gur
Tax ID# [redacted]

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
Stephen C. Stanko, #6022,	)	
	)	Case No. 2014-CP-26-035
Applicant,	)	
	)	
vs.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

APPLICANT'S SECOND MOTION TO SUPPLEMENT PCR RECORD

Applicant Stephen C. Stanko, through undersigned counsel, respectfully moves this Court to supplement the PCR record with the attached pleadings that were previously filed *ex parte*. Respondent moved that this Court unseal the *ex parte* funding pleadings, including motions filed by Petitioner and the related orders of the Court. The pleadings address funding issues litigated by Applicant in this Court and the parties agree they are relevant to issues pending before the Court. Accordingly, Applicant provides copies of the pleadings previously filed *ex parte* and requests this Court make the pleadings listed below part of the PCR record:

1. *Ex Parte* Motion to Authorize Attorney Fee Rates, filed February 17, 2014
2. *Ex Parte* Order Denying Attorney Fees in Excess of Statutory Rate, filed February 18, 2014
3. *Ex Parte* Motion to Reconsider Order Denying Attorney Fees in Excess of Statutory Rate, filed March 17, 2014
4. *Ex Parte* Order Granting Motion to Reconsider and Authorizing Attorney Rates and Hours, filed March 27, 2014
5. *Ex Parte* Applicant's First Motion to Authorize Funding for Expert and Investigative Services, filed April 1, 2014

6. *Ex Parte* Order Authorizing Funding for Experts and Investigative Services, filed April 29, 2014

7. *Ex Parte* Applicant's Motion to Reconsider Order Authorizing Funding for Expert and Investigative Services, filed May 8, 2014

8. *Ex Parte* Order Partially Granting Applicant's Motion to Reconsider and Supplemental Order Authorizing Funding for Investigative Services, filed June 3, 2014

9. *Ex Parte* Applicant's Second Motion to Authorize Funding for Expert Services, filed July 28, 2014

10. *Ex Parte* Order Denying Applicant's Second Motion to Authorize Funding for Expert Services, filed September 25, 2014

11. *Ex Parte* Applicant's Motion to Reconsider Denial of Funding for Expert and Investigative Services and Request for *Ex Parte* Hearing, filed October 14, 2014

12. Letter to Petitioner's Counsel Setting *Ex Parte* Hearing on Motion to Reconsider Denial of Funding for Expert and Investigative Services, sent December 11, 2014

13. *Ex Parte* Motion for Transport Order, filed December 19, 2014

14. Order Denying *Ex Parte* Motion for Order of Transport, filed December 29, 2014

15. *Ex Parte* Applicant's Brief in Support of Motion to Reconsider Denial of Funding for Expert and Investigative Services, filed January 6, 2015

A copy of each pleading listed above is attached to this motion. Given the relevance of these pleadings to the funding issues in this case, Applicant requests the Court make them a part of the PCR record.

February 8, 2017

Respectfully submitted,

EMILY C. PAAVOLA
LINDSEY S. VANN
Justice 360
900 Elmwood Avenue, Suite 200
Columbia, SC 29201
803-765-1044

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NUMBER: 2014-CP-26-035
Stephen C. Stanko, #6022,	)	
	)	
Petitioner,	)	
	)	
vs.	)	*EX PARTE* TO BE FILED UNDER SEAL
	)	MOTION TO AUTHORIZE ATTORNEY
State of South Carolina,	)	FEE RATES
	)	
Respondent.	)	
	)	

Pursuant to S.C. Code § 16-3-26(B), undersigned counsel move this Court to authorize attorney fee rates in this capital post-conviction case. Specifically, counsel request that this Court authorize hourly rates of payment in excess of the rates provided for by statute in accordance with S.C. Code § 16-3-26(D). Ms. Paavola and Ms. Vann request that they be compensated for time spent working on the case at a rates of $110 and $100 per hour, respectively, for both in-court and out-of-court time. In support of this motion, counsel set forth the following facts:

On February 4, 2014, this Court appointed Emily Paavola and Lindsey Vann to represent the applicant during his capital post-conviction proceedings.

Ms. Paavola is the Executive Director of the Death Penalty Resource & Defense Center, and a former fellow of the Cornell Death Penalty Project. She has been appointed as counsel to eight capital state post-conviction cases and three capital federal habeas cases in South Carolina, in addition to the present case. Ms. Paavola has been compensated at a rate of $110 per hour in all cases in which she was appointed as lead counsel. She has also authored several articles on issues related to capital litigation and regularly serves as a faculty member at various national capital training programs each year.

Ms. Vann is an attorney at the Death Penalty Resource & Defense Center. She has experience assisting on five capital cases in various states and has been appointed as counsel to this capital state post-conviction case and one capital federal habeas case in South Carolina. Before beginning her work at the Death Penalty Resource & Defense Center, Ms. Vann served as a federal judicial law clerk to the Honorable James R. Spencer in the Eastern District of Virginia. Ms. Vann also completed internships with the Virginia Capital Representation Resource Center and the Capital Resource Counsel at the Office of the Federal Public Defender for the Eastern District of Virginia. Ms. Vann has received significant training in capital post-conviction litigation, including the Habeas Assistance and Training's Annual Seminar on the Development and Integration of Mitigation Evidence in 2013 and Mitigation Skills Workshop in 2014. Ms. Vann has also published scholarship on the death penalty and the Eighth Amendment.

Ms. Paavola previously worked in a private, civil practice in Indianapolis, Indiana, where her minimum hourly rate was $280 per hour. While court-appointed counsel are not, of course, entitled to rates of compensation equal to that obtainable in the private market, an attorney's reasonable hourly rate for private work is a factor to be considered in assessing the value of his services and the reasonableness of a rate of compensation for court-appointed work. *See Bailey v. State*, 309 S.C. 455, 464 (1992) (finding that compensation in capital cases should be set at a reasonable, but less-than-market rate).

The Commission on Indigent Defense has adopted a policy in accordance with the ABA Guidelines that the following rates are suggested for capital counsel: out-of-court $85-$100 per hour, and, in-court $90-$125 per hour.

CONCLUSION

Wherefore, based on the above statements of facts and arguments, undersigned counsel request that they be compensated at the rates detailed above.[1]

February 17, 2014

Respectfully submitted,

EMILY C. PAAVOLA
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201
803-765-1044

LINDSEY S. VANN
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201
803-765-1044

[1] A proposed order granting this Motion is attached for the Court's consideration.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NUMBER: 2014-CP-26-035
Stephen C. Stanko, #6022,	)	
	)	
Petitioner,	)	
	)	
vs.	)	*EX PARTE* TO BE FILED UNDER SEAL
	)	ORDER DENYING ATTORNEY FEES
State of South Carolina,	)	IN EXCESS OF STATUTORY RATE
	)	
Respondent.	)	
	)	

In this case, the petitioner seeks post-conviction relief (PCR) from his criminal trial and death sentence. Now before the court is an *ex parte* proceeding to determine petitioner's request pursuant to S.C. Code § 16-3-26(B) for the authorization of attorney fees in excess of the statutory rates set in capital PCR cases.[1]

The only argument presented for authorization of fees and costs in excess of the statutory set amount is the qualifications of the petitioner's court-appointed counsel. The legal services to be performed (albeit by very qualified lawyers) appears to be indistinguishable for any other capital PCR case. Nothing presented in this case thus far indicates that additional funding is reasonable and necessary for the adequate and effective representation of the petitioner. Therefore, the Court finds that payment in excess of the rates provided for by statute is not reasonable and necessary to provide compensation adequate to ensure effective assistance of counsel in this case.

NOW, THEREFORE, it is hereby

ORDERED, that the petitioner's Motion to Authorize Attorney Fee Rates in excess of the fees set forth in S.C. Code § 16-3-26(B)(2) is DENIED.

[1] This motion is decided on the petitioner's written Motion to Authorize Attorney Fee Rates attached hereto and without oral arguments.

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

AND IT IS SO ORDERED.

Benjamin H. Culbertson
Circuit Judge

February 18, 2014
Conway, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NUMBER: 2014-CP-26-035
Stephen C. Stanko, #6022,	)	
	)	
Petitioner,	)	
	)	
vs.	)	*EX PARTE* TO BE FILED UNDER SEAL
	)	MOTION TO RECONSIDER ORDER DENYING
State of South Carolina,	)	ATTORNEY FEES IN EXCESS OF STATUTORY
	)	RATE
Respondent.	)	
	)	

Undersigned counsel respectfully move this Court to reconsider its February 18, 2014 Order Denying Attorney Fees in Excess of Statutory Rate. Undersigned counsel submit that the Court should reconsider its order in light of: (1) a letter to the Court from the South Carolina Commission on Indigent Defense ("SCCID"), agreeing to the rates requested by undersigned counsel; and (2) this and other courts' approval of similar rates in other capital post-conviction relief cases.

On March 14, 2014, J. Hugh Ryan III, Deputy Director and General Counsel of the SCCID, sent a letter to the Court,[1] stating that the SCCID does not object to the fees requested by undersigned counsel exceeding the statutory hourly rate. The letter specified that the rates of $110 per hour for Ms. Paavola and $100 per hour for Ms. Vann "are typical for capital cases." The letter further stated that the total hours initially requested by counsel, 500 hours for each attorney, are "normal in these types of cases."

Undersigned counsel further submit that this and other courts in South Carolina consistently approve rates of $110 per hour for lead counsel and $100 per hour for co-counsel in capital post-conviction relief cases. Specifically, this Court approved a rate of $110 per hour for

[1] A copy of the letter from Mr. Ryan is attached to this motion.

Ms. Paavola and $100 per hour for her co-counsel, Mr. John Mills, in the case of *Winkler v. State*, No. 2011-CP-26-03907.[2] Other South Carolina courts have approved similar rates in recent capital post-conviction relief cases based upon attorney qualifications. *See Mercer v. State*, No. 2009-CP-32-5465 (authorizing compensation of $100 per hour for lead counsel and co-counsel based on attorney experience in capital cases and cases in which counsel were privately-retained); *Owens v. State*, No. 09-CP-23-0741 (authorizing compensation of $110 per hour for lead counsel and $100 per hour for co-counsel based on attorney experience in capital cases and cases in which counsel were privately-retained).[3]

In light of the fact that the SCCID agrees to the rates requested by counsel and that this and other South Carolina courts have approved similar rates, undersigned counsel respectfully ask the Court to reconsider its Order Denying Attorney Rates in Excess of Statutory Rates. The Court may authorize payment in excess of the statutory hourly rates provided for in S.C. Code § 16-3-26(B) when payment in excess of the statutory rate is necessary to provide compensation adequate to ensure effective assistance of counsel. *See* S.C. Code § 16-3-26(D). In this complex post-conviction case, payment in excess of the statutory rate is necessary.

The Applicant in this case is currently under two sentences of death, resulting from separate capital trials in Horry and Georgetown counties. Undersigned counsel represent Applicant in the post-conviction relief action arising from Applicant's second death sentence imposed in Horry County. Since counsel's appointment, Respondent has provided counsel with the record from both of Applicant's capital trials. Undersigned counsel have since begun reviewing the record and conducted preliminary investigation in Applicant's case. This

[2] A copy of the Court's order authorizing rates in *Winkler v. State* is attached to this motion.

[3] Copies of the courts' orders authorizing rates in *Mercer v. State* and *Owens v. State* are attached to this motion.

preliminary review makes clear that this post-conviction relief case is more complex than the average capital post-conviction relief case litigated by undersigned counsel in the past. Specifically, lead trial counsel, William Diggs, represented Applicant at both of his capital trials. Undersigned counsel anticipates trial counsel and/or Respondent will assert a defense to ineffective assistance of counsel claims based on strategy decisions made after Applicant's first capital trial. Undersigned counsel must, therefore, review the entire record and investigate the Applicant's first trial as well as the trial underlying this post-conviction relief proceeding. In order to ensure counsel can provide adequate representation to Applicant in this complex case with its extensive record, it is necessary that counsel be compensated above the statutory rate. *See* S.C. Code § 16-3-26(D). It is further appropriate for the Court to authorize payment in excess of the statutory limit by authorizing each attorney to expend 500 hours of time as reasonable and necessary given this case's complex nature and extensive record. *See id.*

Ms. Paavola and Ms. Vann, therefore, request that they be compensated for time spent working on the case at a rates of $110 and $100 per hour, respectively, for both in-court and out-of-court time to ensure effective assistance of counsel. Counsel further request the Court approve 500 hours of time for each attorney, in accordance with normal practice in capital post-conviction relief cases and as reasonable and necessary in light of the complexities of this specific post-conviction relief case.

CONCLUSION

Wherefore, based on the above statements of facts and arguments, undersigned counsel respectfully request that the Court reconsider its Order Denying Attorney Fees in Excess of Statutory Rate and that counsel be compensated at the rates detailed above.[4]

March 17, 2014

Respectfully submitted,

EMILY C. PAAVOLA
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201
803-765-1044

LINDSEY S. VANN
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201
803-765-1044

[4] A proposed order granting this motion is attached for the Court's consideration.

SCCID
SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

1330 Lady Street, Suite 401
Post Office Box 11433
Columbia, South Carolina 29211-1433
Telephone: (803) 734 1343
Facsimile: (803) 734-1345
E-Mail: executive@sccad.sc.gov

T. Patton Adams, Esq., Executive Director
Hugh Ryan, Deputy Director and General Counsel
Lisa A. Graves, Assistant Director

March 14, 2014

The Honorable Benjamin H. Culbertson
P.O. Box 479
Georgetown, SC 29442

RE: Stephen Stanko v. State of South Carolina

Dear Judge Culbertson:

I have spoken with Attorney Emily Paavola regarding the motion she has filed with the Court requesting fees exceeding the statutory hourly rate. SCCID has no objection to the request. The rate of $110 per hour for Ms. Paavola and $100 per hour for Ms. Vann are typical for capital cases.

I did remind Ms. Paavola that in accordance with 16-3-26 (B)(2) there is a total case cap on attorney fees of $25,000 and that the Court would have to authorize counsel to exceed that cap prior to the cap being exceeded. I believe counsel stated she was going to request a total 500 hours of time for each attorney. Such a request would be normal in these types of cases. I did express to her that SCCID may have concerns about any further requests exceeding these amounts and to please notify SCCID of any such request.

I appreciate the Court seeking SCCID's input on this matter as it is much more efficient to address these matters on the front end. Should the Court have any other concerns or questions about expert requests, rates, etc. SCCID will certainly be available to provide any necessary input.

Sincerely,

J. Hugh Ryan III

cc: Emily Paavola, Esq.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
DURHAM COUNTY	)	CASE NUMBER: 2011-CP-26-03907
Louis Michael Winkler, Jr.,	)	
	)	
Petitioner,	)	
	)	**Ex Parte: To Be Filed Under Seal**
vs.	)	[Proposed] Order Authorizing Attorney
	)	Rates and First Order Authorizing Hours
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

This matter comes before me in an *ex parte* proceeding authorized pursuant to S.C. Code § 16-3-26(B) (West 2011) for the authorization of attorney rates in a capital post-conviction case.

The Court finds this request to be reasonable and necessary for the adequate and effective representation of the applicant; and further, the court finds that payment in excess of the rates is reasonable and necessary to provide compensation adequate to ensure effective assistance of counsel. S.C. Code §§ 16-3-26 (B)-(D), 17 -3-80, 17-27-160; S.C. App. Ct. R. 602(G) (West 2011).

For the purposes of this order, as required by law as cited herein, this Court makes the following findings of fact and conclusions of law:

1. On June 26, 2011 this Court appointed Emily Paavola and John Mills to represent Mr. Winkler during his post-conviction proceedings. Ms. Paavola and Mr. Mills have requested compensation at the rate of $110 and $100 per hour, respectively, for time spent on this case.

2. In determining whether compensation should exceed the $50.00 statutory rate for compensation for out-of-court work, and the $75.00 statutory rate for in-court

mtc

work, I first consider the background and experience of attorneys Paavola and Mills. Ms. Paavola is the Executive Director of the Death Penalty Resource and Defense Center, and a former fellow of the Cornell Death Penalty Project. She has experience assisting on ten capital cases in various states and has been appointed as counsel to four capital state post-conviction cases and one capital federal habeas case in South Carolina, in addition to the present case. She has authored several articles on issues related to capital litigation. Mr. Mills has experience assisting on six capital post-conviction cases and has been counsel of record in three capital state post-conviction cases, in addition to Mr. Winkler's case. Before establishing his non-profit law practice, Mr. Mills was a staff attorney at the Habeas Corpus Resource Center, where, in addition to representing death-sentenced prisoners, he developed resources and conducted CLE trainings on capital post-conviction. Mr. Mills has also published scholarship on the death penalty and the Eighth Amendment.

3. Ms. Paavola comes from a private, civil practice in Indianapolis, Indiana, where her minimum hourly rate was $280 per hour. Mr. Mills has never been in private civil practice, but persons with similar experience and training as Mr. Mills, who are in private practice in North Carolina, commonly bill hourly rates at $270 per hour. While court-appointed counsel are not, of course, entitled to rates of compensation equal to that obtainable in the private market, an attorney's reasonable hourly rate for private work is a factor to be considered in assessing the value of his services and the reasonableness of a rate of compensation for court-appointed work. *See Bailey v. State*, 424 S.E.2d 503, 508 (S.C. 1992) (compensation in capital cases should be set at a reasonable but less-than-market rate).

2/mtc

4. The Commission on Indigent Defense has adopted a policy in accordance with the ABA Guidelines that the following rates are suggested for capital counsel: out-of-court $85-$110/hour; and, in-court $90-$125/hour. In view of all the circumstances of this case, I find that a fair and reasonable rate of compensation for out-of-court and in-court work performed by Ms. Paavola and Mr. Mills is, respectively, $110 and $100 per hour. Therefore, payment for the time expended by them should be made at those hourly rates.

IT IS THEREFORE ORDERED THAT:

1. This Court sets attorney Paavola's fees at $110 per hour for all time spent on the case, plus reasonable costs and case expenses.

2. This Court sets attorney Mills' fees at $100 per hour for all time spent on the case, plus reasonable costs and case expenses.

3. Attorneys Paavola and Mills are each initially authorized to submit billing up to 500 hours.

4. Attorneys Paavola and Mills are authorized to submit interim billing directly to the Commission on Indigent Defense up to the authorized hours of 500 per attorney.

5. This Order is made in compliance with state and federal law. *See Rompilla v. Beard*, 545 U.S. 374 (2005); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Ake v. Oklahoma*, 470 U.S. 68 (1985); *Von Dohlen v. State*, 360 S.C. 598, 602 S.E.2d 738 (2004); *Ex Parte: Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994); *Bailey v. State*, 424 S.E.2d 503 (S.C. 1992); *McMehan v. York County Council*, 281 S.C. 249, 315 S.E.2d 127 (S.C. App. 1984); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982); S.C.

3

Code §§ 16-3-26 (B)-(D), 17-3-80; Order of the S.C. Supreme Court of September 29, 2006; and S.C. App. Ct. R. 602(G).

IT IS FURTHER ORDERED that this Order shall be sealed by the Clerk of Court and/or the Office of Indigent Defense on behalf of the Clerk of Court since this Order deals with confidential defense matters. S.C. Code § 16-3-26(C); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982).

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

AND IT IS SO ORDERED.

Date: July 7, 2011
Georgetown, SC

Benjamin H. Culbertson
Resident Circuit Judge

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	Case No. 2009-CP-32-5465
KEVIN J. MERCER, #6021	)	
Applicant,	)	
		EX PARTE
vs.	)	**TO BE FILED UNDER SEAL**
		ORDER AUTHORIZING
State of South Carolina,	)	**ATTORNEY FEE RATES**
Respondent.	)	
	)	

This matter comes before me in an *ex parte* proceeding authorized pursuant to S.C. Code §16-3-26(B) for the authorization of attorney fee rates in a capital post-conviction case.

The Court finds this request to be reasonable and necessary for the adequate and effective representation of the applicant; and further, the Court finds that payment in excess of the rates is reasonable and necessary to provide compensation adequate to ensure effective assistance of counsel. S.C. Code §16-3-26 (B), (C) and (D), S.C. Code §17-3-80, §17-27-160 (2006 Cum.Supp.), and Rule 602 (G) of the South Carolina Appellate Court Rules.

For the purposes of this order as required by state law as cited herein this Court makes the following findings of fact and conclusions of law:

1. On December 9, 2009, this Court appointed Emily Paavola and Jason Peavy to represent the applicant during his post-conviction proceedings. Mr. Peavy and Ms. Paavola have requested compensation at the rate of $100 per hour for time spent on this case.

2. In determining whether compensation should exceed the $50.00 statutory rate for compensation for out-of-court work, and the $75.00 statutory rate for in-court work, I first consider the background and experience of attorneys Paavola and Peavy. Ms. Paavola is

Executive Director of the Death Penalty Resource & Defense Center, and a former fellow of the Cornell Death Penalty Project. She has experience assisting on eight capital cases in various states, and has been appointed as counsel to three capital post-conviction cases in South Carolina in addition to the present case. She has authored several articles on issues related to capital litigation. Mr. Peavy has been an attorney since 2001. He formerly served as an Assistant Attorney General and is now in private practice. Mr. Peavy has experience handling a wide variety of felony criminal cases.

3. Mr. Peavy's minimum hourly rate for privately-retained clients is $250 per hour. Ms. Paavola comes from a private, civil practice in Indianapolis, Indiana, where her minimum hourly rate was $280 per hour. While court-appointed counsel are not, of course, entitled to rates of compensation equal to that obtainable in the private market, an attorney's reasonable hourly rate for private work is a factor to be considered in assessing the value of his services and the reasonableness of a rate of compensation for court-appointed work. *See Bailey v. State*, 424 S.E.2d 503, 508 (S.C. 1992) (compensation in capital cases should be set at a reasonable but less-than-market rate).

4. The Commission on Indigent Defense has adopted a policy in accordance with the ABA Guidelines that the following rates are suggested for capital counsel: out-of-court $85-$110/hour; and, in-court $90-$125/hour. In view of all the circumstances of this case, I find that a fair and reasonable rate of compensation for out-of-court and in-court work performed by Mr. Peavy and Ms. Paavola in this case is $100 per hour. Therefore, payment for the time expended by them should be made at those hourly rates.

IT IS THEREFORE ORDERED THAT:

1. This Court sets attorney Paavola's fees at $100 per hour, for all time spent on the case, plus costs.

2. This Court sets attorney Peavy's fees at $100 per hour for all time spent on the case, plus costs.

3. Attorneys Paavola and Peavy are authorized to submit interim billing.

4. This Order is made pursuant to *Rompilla v. Beard*, 545 U.S. 374 (2005); *Wiggins v. Smith, 539 U.S. 510* (2003); *Ake v. Oklahoma*, 470 U.S. 68 (1985); *Von Dohlen v. State*, 360 S.C. 598, 602 S.E.2d 738 (2004); *Ex Parte: Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994); *Bailey v. State*, 424 S.E.2d 503 (S.C. 1992); *McMehan v. York County Council*, 281 S.C. 249, 315 S.E.2d 127 (S.C. App. 1984); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982); S.C. Code §16-3-26 (B), (C), (D) and §17-3-80 (2006 Cum.Supp.); Order of the S.C. Supreme Court of September 29, 2006; and Rule 602(G) of the S.C. Appellate Court Rules.

IT IS FURTHER ORDERED that this Order shall be sealed by the Clerk of Court and/or the Office of Indigent Defense on behalf of the Clerk of Court, pursuant to S.C. Code § 16-3-26 (C) (2006 Cum.Supp.) and *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982), since this Order deals with confidential defense matters.

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

AND IT IS SO ORDERED.

Hon. James R. Barber, III
Presiding Judge

January 11, 2010

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
County of Greenville	)	
	)	
Freddie Eugene Owens, #5065, Applicant,	)	Case No.: 09-CP-23-0741
	)	
vs.	)	**EX PARTE**
	)	**TO BE FILED UNDER SEAL**
State of South Carolina, Respondent.	)	**ORDER AUTHORIZING ATTORNEY RATES**

This matter comes before me in an *ex parte* proceeding authorized pursuant to S.C. Code §16-3-26(B) for the authorization of attorney fee rates in a capital post-conviction case.

The Court finds this request to be reasonable and necessary for the adequate and effective representation of the applicant; and further, the Court finds that payment in excess of the rates is reasonable and necessary to provide compensation adequate to ensure effective assistance of counsel. S.C. Code §16-3-26 (B), (C) and (D), S.C. Code §17-3-80, §17-27-160 (2006 Cum.Supp.), and Rule 602 (G) of the South Carolina Appellate Court Rules.

For the purposes of this order as required by state law as cited herein this Court makes the following findings of fact and conclusions of law:

1. On April 11, 2008, this Court appointed Keir Weyble and Emily Paavola to represent the applicant during his post-conviction proceedings. Mr. Weyble and Ms. Paavola have requested compensation at the rate of $110 and $100 per hour, respectively, for time spent on this case.

2. In determining whether compensation should exceed the $50.00 statutory rate for compensation for out-of-court work, and the $75.00 statutory rate for in-court work, I first consider the background and experience of attorneys Weyble and Paavola. Mr. Weyble has been counsel in at least seven capital cases in South Carolina at the trial, post-conviction and federal

habeas corpus stages. He is a frequent speaker at CLE conferences relevant to capital litigation and has also represented death sentenced inmates in several other jurisdictions. Ms. Paavola is a former fellow of the Cornell Death Penalty Project. She has experience assisting on eight capital cases in various states, and has been appointed as counsel to three capital post-conviction cases in South Carolina since moving here last summer. She has authored several articles on issues related to capital litigation.

3. Mr. Weyble's minimum hourly rate for privately-retained clients is $200 per hour. Ms. Paavola comes from a private, civil practice in Indianapolis, Indiana, where her minimum hourly rate was $280 per hour. While court-appointed counsel are not, of course, entitled to rates of compensation equal to that obtainable in the private market, an attorney's reasonable hourly rate for private work is a factor to be considered in assessing the value of his services and the reasonableness of a rate of compensation for court-appointed work. *See Bailey v. State*, 424 S.E.2d 503, 508 (S.C. 1992) (compensation in capital cases should be set at a reasonable but less-than-market rate).

4. The Commission on Indigent Defense has adopted a policy in accordance with the ABA Guidelines that the following rates are suggested for capital counsel: out-of-court $85-$110/hour; and, in-court $90-$125/hour. In view of all the circumstances of this case, I find that a fair and reasonable rate of compensation for out-of-court and in-court work performed by Mr. Weyble and Ms. Paavola in this case is $110 and $100 per hour, respectively. Therefore, payment for the time expended by them should be made at those hourly rates.

IT IS THEREFORE ORDERED THAT:

1. This Court sets attorney Paavola's fees at $100 per hour, for all time spent on the case, plus costs.

2. This Court sets attorney Weyble's fees at $110 per hour for all time spent on the case, plus costs.

3. This Order is made pursuant to *Rompilla v. Beard*, 545 U.S. 374 (2005); *Wiggins v. Smith, 539 U.S. 510* (2003); *Ake v. Oklahoma*, 470 U.S. 68 (1985); *Von Dohlen v. State*, 360 S.C. 598, 602 S.E.2d 738 (2004); *Ex Parte: Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994); *Bailey v. State*, 424 S.E.2d 503 (S.C. 1992); *McMehan v. York County Council*, 281 S.C. 249, 315 S.E.2d 127 (S.C. App. 1984); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982); S.C. Code §16-3-26 (B), (C), (D) and §17-3-80 (2006 Cum.Supp.); Order of the S.C. Supreme Court of September 29, 2006; and Rule 602(G) of the S.C. Appellate Court Rules.

IT IS FURTHER ORDERED that this Order shall be sealed by the Clerk of Court and/or the Office of Indigent Defense on behalf of the Clerk of Court, pursuant to S.C. Code § 16-3-26 (C) (2006 Cum.Supp.) and *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982), since this Order deals with confidential defense matters.

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

AND IT IS SO ORDERED.

Edward W. Miller
Presiding Judge

5/27
June __, 2009

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NUMBER: 2014-CP-26-035
Stephen C. Stanko, #6022,	)	
	)	
Petitioner,	)	*EX PARTE* TO BE FILED UNDER SEAL
	)	
vs.	)	Order Granting Motion to Reconsider and
	)	Authorizing Attorney Rates and Hours
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

This matter comes before me in an *ex parte* proceeding pursuant to S.C. Code § 16-3-26(B) for the authorization of attorney rates in a capital post-conviction case. The court previously denied the request and the matter is now before the court on a Motion to Reconsider.

The Court now finds this request to be reasonable and necessary for the adequate and effective representation of the applicant; and further, the Court finds that payment in excess of the rates provided for by statute is reasonable and necessary to provide compensation adequate to ensure effective assistance of counsel. *See* S.C. Code §§ 16-3-26(B)-(D), 17-3-80, 17-27-160; S.C. App. Ct. R. 602(G).

For the purposes of this order, as required by law as cited herein, this Court makes the following findings of fact and conclusions of law:

1. On February 4, 2014, this Court appointed Emily Paavola and Lindsey Vann to represent the Applicant during his capital post-conviction proceedings. Ms. Paavola and Ms. Vann have requested compensation at the rate of $110 and $100 per hour, respectively, for time spent on this case.

2. In determining whether compensation should exceed the $50 statutory rate for compensation for out-of-court work, and $75 statutory rate for in-court work, I first consider the background and experience of attorneys Paavola and Vann.

3. Ms. Paavola is the Executive Director of the Death Penalty Resource & Defense Center, and a former fellow of the Cornell Death Penalty Project. She has been appointed as counsel to eight capital state post-conviction cases and three capital federal habeas cases in South Carolina, in addition to the present case. Ms. Paavola has been compensated at a rate of $110 per hour in all cases in which she was appointed as lead counsel. She has also authored several articles on issues related to capital litigation and regularly serves as a faculty member at various national capital training programs each year.

4. Ms. Vann is an attorney at the Death Penalty Resource & Defense Center. She has experience assisting on five capital cases in various states and has been appointed as counsel to this capital state post-conviction case and one capital federal habeas case in South Carolina. Before beginning her work at the Death Penalty Resource & Defense Center, Ms. Vann served as a federal judicial law clerk to the Honorable James R. Spencer in the Eastern District of Virginia. Ms. Vann also completed internships with the Virginia Capital Representation Resource Center and the Capital Resource Counsel at the Office of the Federal Public Defender for the Eastern District of Virginia. Ms. Vann has received significant training in capital post-conviction litigation, including the Habeas Assistance and Training's Annual Seminar on the Development and Integration of Mitigation Evidence in 2013 and Mitigation Skills Workshop in 2014. Ms. Vann has also published scholarship on the death penalty and the Eighth Amendment.

5. Ms. Paavola previously worked in a private, civil practice in Indianapolis, Indiana, where her minimum hourly rate was $280 per hour. While court-appointed counsel are

not, of course, entitled to rates of compensation equal to that obtainable in the private market, an attorney's reasonable hourly rate for private work is a factor to be considered in assessing the value of his services and the reasonableness of a rate of compensation for court-appointed work. *See Bailey v. State*, 309 S.C. 455, 464 (1992) (finding that compensation in capital cases should be set at a reasonable, but less-than-market rate).

6. I next consider whether payment in excess of the statutory rates "is necessary to provide compensation adequate to ensure effective assistance of counsel." S.C. Code § 16-3-26(D). I find that payment in excess of the statutory rates is necessary in light of the complex nature of this post-conviction relief case. The Applicant in this case is currently under two sentences of death, resulting from separate capital trials in Horry and Georgetown counties. Lead trial counsel, William Diggs, represented Applicant at both of his capital trials. Appointed counsel anticipates trial counsel and/or Respondent will assert a defense to ineffective assistance of counsel claims based on strategy decisions made after Applicant's first capital trial. Undersigned counsel must, therefore, review the entire record and investigate the Applicant's first trial as well as the trial underlying this post-conviction relief proceeding. Applicant's multiple capital trials and death sentences make this case more complex than the average post-conviction relief proceeding.

7. In general in capital cases, the South Carolina Commission on Indigent Defense ("SCCID") has adopted a policy in accordance with the ABA Guidelines that the following rates are suggested for capital counsel: out-of-court $85-$100 per hour, and, in-court $90-$125 per hour. In relation to this particular case, the Court received a letter from J. Hugh Ryan III, Deputy Director and General Counsel of the South Carolina Commission on Indigent Defense, stating that the SCCID does not object to the fees requested by counsel exceeding the statutory hourly

rate. The letter specified that the rates of $110 per hour for Ms. Paavola and $100 per hour for Ms. Vann "are typical for capital cases."

8. In view of all the circumstances of this case, I find that the rate necessary to provide compensation adequate to ensure effective assistance of counsel is a rate of $110 and $100 per hour for Ms. Paavola and Ms. Vann, respectively, for both out-of-court and in-court work performed. Therefore, payment for the time expended by them should be made at those hourly rates.

9. Counsel also ask this Court to authorize 500 hours of time for each attorney on this case. Authorization of 500 hours of time for each attorney would result in payment in excess of the statutory cap set in S.C. Code § 16-3-26(B). However, the letter received by the Court from the SCCID indicates that such a request is "normal in these types of cases." Further, I find that authorization of 500 hours of time for each attorney is reasonable and necessary given this case's complex nature and extensive record. *See* S.C. Code § 16-3-26(D).

NOW, THEREFORE, IT IS HEREBY

ORDERED, that the Petitioner's Motion to Reconsider is GRANTED; it is further ORDERED THAT:

1. This Court sets attorney Paavola's fees at $110 per hour, *nunc pro tunc*, for all time spent on the case from the date of appointment, plus reasonable costs and case expenses.

2. This Court sets attorney Vann's fees at $100 per hour, *nunc pro tunc*, for all time spent on the case from the date of appointment, plus reasonable costs and case expenses.

3. Attorneys Paavola and Vann are each initially authorized to submit billing up to 500 hours.

4. Attorneys Paavola and Vann are authorized to submit interim billing directly to the Commission on Indigent Defense up to the authorized hours of 500 per attorney.

5. This Order is made in compliance with state and federal law. *See Rompilla v. Beard*, 545 U.S. 374 (2005); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Ake v. Oklahoma*, 470 U.S. 68 (1985); *Von Dohlen v. State*, 360 S.C. 598 (2004); *Ex Parte: Lexington County*, 314 S.C. 220 (1994); *Bailey*, 309 S.C. 455; *McMehan v. York County Council*, 281 S.C. 249 (S.C. App. 1984); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982); S.C. Code §§ 16-3-26 (B)-(D), 17-3-80; Order of the S.C. Supreme Court of September 29, 2006; S.C. App. Ct. R. 602(G).

IT IS FURTHER ORDERED that this Order shall be sealed by the Clerk of Court and/or the Office of Indigent Defense on behalf of the Clerk of Court since this order deals with confidential defense matters. S.C. Code § 16-3-26(C); *Smart*, 278 S.C. 515.

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

IT IS SO ORDERED.

Date: March 27, 2014
Georgetown, SC

Benjamin H. Culbertson
Circuit Judge

STATE OF SOUTH CAROLINA)) COUNTY OF HORRY)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
Stephen C. Stanko, #6022,)) Applicant,)) vs.)) State of South Carolina,)) Respondent.))	Case No. 2014-CP-26-035 **EX PARTE** **TO BE FILED UNDER SEAL** **APPLICANT'S FIRST MOTION TO AUTHORIZE FUNDING FOR EXPERT AND INVESTIGATIVE SERVICES**

Applicant Stephen C. Stanko is an indigent, death-sentenced inmate. He is seeking post-conviction relief from his convictions and sentence. Mr. Stanko respectfully moves this Court to authorize the following amounts: (1) $10,000 for factual investigative services, (2) $15,000 for mitigation investigative services, and (3) $15,000 for the services of a forensic psychologist.

These funds are necessary to provide Mr. Stanko with constitutionally and statutorily adequate resources to pursue his post-conviction relief action. *See, e.g.*, U.S. Const. amends V, VI, VII, XIV; S.C. Const. arts. I, III, XIV; S.C. Code § 17-27-160; *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992); S.C. App. Ct. R. 602. Applicant reserves the right to move for additional funds as they become necessary.

This motion is *ex parte* as authorized by state law. S.C. Code Ann. §§ 16-3-26(C), 17-27-160(B). Mr. Stanko requests that this Court order this motion sealed and not filed in the public record of this proceeding or disclosed in any manner to the State or its attorneys.[1]

[1] Applicant does not request a hearing on this motion and anticipates the Court will decide the motion without a hearing, per the Court's scheduling order. If, however, the Court deems a hearing necessary, Applicant asks this Court to conduct any hearings ancillary to this motion outside the presence of the solicitor, the attorney general, law enforcement personnel, state and county officials, news media, and the general public and to enter an appropriate order under seal. *Ex Parte Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994).

The legal and factual bases for this motion are set forth below.

I. LEGAL BASIS FOR AUTHORIZING THE EXPENDITURE OF FUNDS IN EXCESS OF THE STATUTORY LIMITS.

The South Carolina legislature has provided that indigents seeking post-conviction relief from capital judgments are entitled to expert assistance upon an *ex parte* finding by the court that such services are "reasonably necessary for the representation of the defendant." *See* S.C. Code § 17-27-160(B) (incorporating the funding provisions of S.C. Code § 16-3-26 which provides that the court shall order the payment of fees and expenses "[u]pon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant"); *see also* Rule 602(g)(6), SCACR ("In post-conviction relief matters, expenses related to representation and fees of appointed counsel may be paid where permitted and as prescribed in these Rules and the Defense of Indigents Act.").

The right to file an application for post-conviction relief, and the right to the assistance of counsel when doing so, are hollow in the absence of the concomitant right of an indigent applicant to receive funding for expert and investigative services where appropriate. *Williams v. Martin*, 618 F.2d 1021, 1025 (4th Cir. 1980) (explaining that "[t]he quality of representation at trial may be excellent and yet valueless to the defendant if his defense requires . . . the services of a[n] . . . expert and no such services are provided") (citing ABA Standards, Providing Defense Services, commentary, 22-23 (App. Draft 1968)). The state is required to "provide the 'basic tools' for an adequate defense to an indigent defendant." *Bailey*, 309 S.C. at 459, 424 S.E.2d at 506 (citing *Ake v. Oklahoma*, 470 U.S. 68 (1985)). Namely, it is the state's duty to "ensure that the defendant has . . . [funding for] the services of experts necessary to a meaningful defense." *Id.* This duty extends to the post-conviction context as well. Indeed, the United States Supreme Court specifically recognized that "the right to counsel [in federal habeas corpus proceedings]

necessarily includes a right for that counsel meaningfully to research and present a defendant's habeas claims." *McFarland v. Scott*, 512 U.S. 849, 858 (1994).

The ability to retain the services of experts and investigative assistance in various areas is particularly essential in capital cases. A capital case "is an extraordinary proceeding" where "the attorney is charged with the awesome responsibility of defending a person's life." *Bailey*, 309 S.C. at 460, 424 S.E.2d at 506. To prepare for the guilt or innocence phase of a capital trial, an attorney must vigorously and thoroughly investigate the facts and circumstances of the alleged crime, which often requires the assistance of various experts. *See id.* (recognizing that unlike the solicitor, the defense attorney does not have "the entire array of state, county, and municipal law enforcement" at his disposal). Just as assistance is imperative in the guilt or innocence phase of a capital case, it is equally necessary during the sentencing phase where counsel is challenged by novel and complex issues. *See id.* at 461, 424 S.E.2d at 506-07. Due to the finality and irrevocability of the penalty of death, the United States Supreme Court has stressed the "need for reliability in the determination that death is the appropriate punishment in a specific case." *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976). In order to ensure that the appropriate sentence is chosen, the Court has emphasized the importance of presenting to the sentencing body the fullest information possible concerning the defendant's life and characteristics. *See Lockett v. Ohio*, 438 U.S. 586, 605 (1978) (plurality opinion) (holding that preventing the sentencer in a capital case from considering the defendant's characteristics "creates the [unacceptable] risk that the death penalty will be imposed in spite of factors which may call for a less severe penalty"); *see also Jurek v. Texas*, 428 U.S. 262, 271 (1976) (asserting that the sentencing body must have before it all possible relevant information about the individual whose fate it must determine).

Thus, in capital cases, defense counsel has a duty to vigorously investigate and present mitigating evidence. *See Sears v. Upton*, 130 S. Ct. 3259, 3264 (2010); *Williams v. Taylor*, 529 U.S. 362, 393 (2000). This duty requires that counsel's investigations into mitigating evidence "should comprise efforts to discover *all reasonably available* mitigating evidence and evidence to rebut any aggravating evidence that may be introduced by the prosecutor." *Wiggins v. Smith*, 539 U.S. 510, 524 (2003) (quoting ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 11.4.1(C), p. 93 (1989)); *see also Padilla v. Kentucky*, 559 U.S. 356, 366 (2010) ("We long have recognized that prevailing norms of practice as reflected in American Bar Association standards and the like . . . are guides to determining what is reasonable." (internal quotation marks omitted)).

Post-conviction counsel must "continue an aggressive investigation of all aspects of the case." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.15.1(E)(4); *see also id.* 10.15.1(E)(4) commentary ("[C]ollateral counsel cannot rely on the previously compiled record but must conduct a thorough, independent investigation."). Post-conviction counsel must review the record and conduct investigation to determine whether the applicant's conviction or sentence are "in violation of the Constitution of the United States or the Constitution or laws of this state." S.C. Code § 17-27-20(A)(1). This responsibility necessarily includes determining whether the applicant received ineffective assistance of counsel during his trial. *See Strickland v. Washington*, 466 U.S. 668 (1984). If trial counsel's decision to end investigation, including mitigation investigation, was either inconsistent with professional standards or unreasonable because known information should have led counsel to investigate further, a capital defendant may have a valid claim of ineffective assistance of counsel. *See Sears*, 130 S. Ct. at 3264; *Wiggins v. Smith*, 539 U.S. 510, 533-34 (2003); *Strickland*, 466 U.S.

688, 690-91 (1984). When evaluating *Strickland* claims, courts "evaluate the totality of the evidence—'both that adduced at trial, *and the evidence adduced in the habeas proceeding[s].*'" *Wiggins*, 539 U.S. at 536 (quoting *Williams*, 529 U.S. at 397-98).

II. FACTS RELEVANT TO MOTION FOR AUTHORIZATION TO EXPEND FUNDS FOR EXPERT SERVICES.

Mr. Stanko was convicted and sentenced to death by an Horry County jury in connection with the April 8, 2005 murder and armed robbery of Henry Turner.[2] *State v. Stanko*, 402 S.C. 252, 258, 741 S.E.2d 708, 711 (2013). On direct appeal, the Supreme Court of South Carolina affirmed the conviction and sentence. *Id.* Mr. Stanko subsequently moved for a stay of execution in order to pursue post-conviction relief. The Supreme Court of South Carolina issued a stay of execution and assigned the post-conviction relief proceedings to this Court. Order, *State v. Stanko*, No. 2010-154746 (S.C. Nov. 7, 2013). This Court appointed undersigned counsel to represent Mr. Stanko on February 4, 2014. On February 21, 2014 this Court entered a Scheduling Order in this post-conviction relief proceeding, scheduling a merits hearing for December of 2014.

At trial, the defense presented an insanity defense during the guilt phase. The defense presented the testimony of seven experts in an effort to prove that Mr. Stanko was legally insane at the time of the crime because he is a "psychopath." After presenting this testimony, the defense argued the jury should find Mr. Stanko not guilty by reason of insanity. The jury rejected this argument and found Mr. Stanko guilty at the conclusion of the guilt phase of the trial.

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[2] Mr. Stanko was also convicted of murder and other charges in Georgetown County in connection with the April 7, 2005 murder of Laura Ling and sexual assault of Ms. Ling's teenage daughter. Mr. Stanko was sentenced to death for the murder of Laura Ling on August 18, 2006. *See State v. Stanko*, 376 S.C. 571, 658 S.E.2d 94 (2008). The Georgetown County convictions and sentence are currently the subject of a post-conviction relief proceeding in Georgetown County. Undersigned counsel do not represent Mr. Stanko in connection with his Georgetown County proceedings.

In the penalty phase, the prosecution presented three types of evidence. First, the prosecution offered evidence of Mr. Stanko's prior criminal history and criminal acts, including previous kidnapping and assault and battery of a high and aggravated nature convictions and numerous instances of Mr. Stanko defrauding people by passing himself off as a lawyer or a business person. Second, the prosecution presented evidence of Mr. Stanko's prior Georgetown County conviction for the murder of Laura Ling and rape of her teenage daughter. Finally, the prosecution presented victim impact evidence from Mr. Turner's family.

Trial counsel's strategy for the penalty phase was to essentially re-offer the defense theory that Mr. Stanko was insane at the time of the crimes—a theory the juries had previously rejected in both the Ling trial and in the guilt-or-innocence phase of the Turner trial. The defense also presented a hastily prepared mitigation case, comprising of the brief testimony of a neighbor, three former teachers, and three employees of the South Carolina Department of Corrections. Finally, the defense called a Licensed Social Worker who testified that she had only recently begun working on the case and felt that Mr. Stanko dealt with some largely unspecified "difficulties" during his childhood.

Undersigned counsel have been diligently working on this matter since their appointment on February 4, 2014. Based on the totality of circumstances in this case—including counsel's review of the record, initial meetings with Mr. Stanko, and preliminary investigation—counsel have determined that, at a minimum, the expert services of a fact investigator, a mitigation investigator, and a forensic psychologist are imperative to assist counsel in investigating and presenting Mr. Stanko's claims for post-conviction relief. Further, it is important to note that the scheduling order entered in this case is, in counsel's experience, extraordinarily short. Apart from this matter, Ms. Paavola has served as post-conviction counsel in seven capital post-

conviction relief cases in South Carolina and has never previously been to hearing in such a short period of time. In order for counsel to have even a fighting chance at adequately preparing Mr. Stanko's claims for an evidentiary hearing under the current scheduling order, the immediate, competent, and adequately funded assistance of investigators and experts is essential.

III. FACTS AND ARGUMENT RELEVANT TO REQUEST FOR A FACT INVESTIGATOR.

Undersigned counsel's preliminary review of the trial record, court exhibits, portions of trial counsel's files, interviews with Mr. Stanko, and interviews with a majority of the jurors for Mr. Stanko's trial have revealed a number of factual issues in need of investigation. For example, one juror who decided Mr. Stanko's fate at trial recently revealed new facts which, if true, suggest the possibility of juror bias, juror misconduct, and the inadequate assistance of counsel during jury selection. These allegations were not addressed on the trial record, and they require follow up investigation to fully develop the potential claims raised by this revelation. A fact investigator is, therefore, necessary to investigate the possible bias of one of the jurors, who decided whether Mr. Stanko should live or die. *See Smith v. Phillips*, 455 U.S. 209, 217 (1982) ("Due process [requires] a jury capable and willing to decide the case solely on the evidence before it.").

Review of trial counsel's files and interviews with Mr. Stanko further reveal that trial counsel did not fully investigate the incidents presented by the state at trial in which Mr. Stanko was portrayed as a con-man with violent tendencies. The prosecution presented multiple witnesses who described instances where Mr. Stanko created fraudulent schemes by presenting himself as a lawyer or a person able to help with legal or business matters, taking money for his work but not completing the work he promised. Counsel's initial investigation indicates that some of this testimony presented by the state may have been false or misleading. A fact

investigator is necessary to investigate these incidents to determine whether trial counsel provided ineffective assistance in failing to investigate these incidents. *See Strickland*, 466 U.S. at 690-91.

The assistance of a fact investigator is necessary to aid Mr. Stanko in investigating these issues, identifying other issues for investigation, and presenting his claims for post-conviction relief. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1(A)(1), commentary ("The assistance of an investigator who has received specialized training is indispensable to discovering and developing facts that must be unearthed . . . in post-conviction proceedings. . . . Counsel lacks the special expertise required to accomplish the high quality investigation to which a capital defendant is entitled and simply has too many other duties to discharge in preparing the case."); *see also id.* 10.4(C)(2)(a). A fact investigator is necessary to investigate and present Mr. Stanko's constitutional claims for post-conviction relief. This Court must, therefore, authorize funds for a mitigation investigator as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

An affidavit from private investigator Mark B. Harris is attached. The affidavit details Mr. Harris' experience in the field of factual investigation in capital cases. Undersigned counsel have conferred with Mr. Harris regarding Mr. Stanko's case and agree with Mr. Harris that the estimated expenditure of 200 hours is reasonably necessary to conduct the required factual investigation in this case. Mr. Harris' rate for his services is $50 per hour, which is reasonable given his experience, the complexities of investigating capital cases, and that $50 per hour is the standard rate authorized by of South Carolina Commission on Indigent Defense for fact investigators.

IV. FACTS AND ARGUMENT RELEVANT TO REQUEST FOR A MITIGATION INVESTIGATOR.

Undersigned counsel's preliminary review of the trial record, court exhibits, portions of trial counsel's files, and preliminary interviews with Mr. Stanko and the mitigation investigator retained for the Georgetown County trial have revealed that trial counsel unreasonably limited their mitigation investigation. Thus, an adequate mitigation investigation was never conducted in this case. Specifically, undersigned counsel's initial investigation makes clear that trial counsel committed to presenting Mr. Stanko as an insane psychopath early on in the course of preparation for the Georgetown County trial. As a result of this trial theory, trial counsel chose to present evidence tending to show Mr. Stanko as a psychopath and curtailed mitigation investigation, believing that evidence of Mr. Stanko's good character or other mitigating evidence contradicted the theory that he was a psychopath.[3] Trial counsel went so far as to tell defense witnesses not to testify about any good character evidence of which they may have had knowledge. During Mr. Stanko's Horry County trial, trial counsel did not retain a mitigation investigator, though trial counsel apparently asked a fact investigator, who did not have training or experience in mitigation investigation, to conduct mitigation investigation. Therefore, negligible mitigation investigation was conducted prior to Mr. Stanko's Horry County trial.

Counsel representing a capital defendant at any stage has "an obligation to conduct thorough and independent investigations relating to the issues of both guilt and penalty." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7(A).

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[3] Undersigned counsel's initial investigation reveals trial counsel knew, or should have known, that presenting evidence of psychopathy was not a reasonable trial strategy in either the guilt or penalty phase. Regardless of the reasonableness of the strategy, trial counsel failed to conduct an adequate investigation prior to settling on a trial strategy, creating a significant likelihood that Mr. Stanko has a viable claim for ineffective assistance of counsel under *Sears*, *Porter*, *Wiggins*, *Williams*, and *Strickland*.

Counsel in capital cases have a well-established duty to present mitigating evidence. *See, e.g.*, *Wiggins*, 539 U.S. 510; *Williams*, 529 U.S. 362; ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7, commentary. Mitigating evidence encompasses all information about a person's background and characteristics, not simply information directly related to the offense itself. *See Lockett*, 438 U.S. at 608. Therefore, investigations into mitigating evidence should comprise efforts to discover evidence related to topics including, but not limited to, the defendant's medical and mental health history, educational history, employment and training history, family and social history, prior adult and juvenile correctional experience, and religious and cultural influences. *See Porter v. McCollum*, 558 U.S. 30, 39-40, 453 (2009) (per curiam); ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7(A), commentary, 10.11(A). Moreover, counsel must discover all reasonably available evidence to rebut any aggravating evidence that may be introduced by the prosecutor. ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.11 (A).

Defense counsel in all stages of capital cases are charged with the enormous responsibility to investigate and pursue all leads that would reasonably uncover possible mitigating evidence, *see Wiggins*, 539 U.S. at 524, and it is unrealistic to believe that defense counsel can always manage this daunting task on their own. *See Bailey*, 424 S.E.2d at 460, 463-64 (explaining that capital cases require "extraordinary time, effort, and commitment" and noting that unlike solicitors, defense counsel normally does not have investigatory assistance at its disposal). Even if defense counsel is able to manage this task within the time constraints that they face, defense counsel may require expert assistance because such professionals have specialized knowledge and skill concerning mitigating issues that defense counsel lacks. *Cf.*

Ake v. Oklahoma, 470 U.S. 68, 80 (1985) (explaining the essential role experts perform through skills in gathering facts, interviewing, asking probative questions, and analyzing information).

A mitigation specialist is necessary to focus and direct the investigation of Mr. Stanko's life history and to uncover any mitigating factors that might exist. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1(A), commentary ("A mitigation specialist is . . . indispensable. . . throughout all capital proceedings" because "[m]itigation specialists possess clinical and information-gathering skills and training that most lawyers simply do not have."); *see also id* 10.4(C)(2)(a). A mitigation specialist is especially necessary in this case because Mr. Stanko's father was in the military when he was a child. Records for Mr. Stanko and his family are, therefore, in many different locations and in the custody of the United States military. A mitigation specialist with experience in complex record collection is necessary to complete a full investigation into Mr. Stanko's life history. *Id.* 10.7, commentary ("Counsel should use all appropriate avenues . . . to obtain all potentially relevant information pertinent to the client, his or her siblings and parents, and other family members including but not limited to . . . medical records [and] military records."). Additionally, Mr. Stanko has three living siblings, two of whom live outside of South Carolina. A mitigation expert is needed to develop a relationship with each of these siblings in order to obtain an understanding of Mr. Stanko's life growing up, the character of Mr. Stanko's now-deceased parents, and the effect the untimely death of one of Mr. Stanko's brothers had on Mr. Stanko. *See id.* 10.7, commentary ("It is necessary to locate and interview the client's family members.").

In Mr. Stanko's case, counsel did not conduct an adequate investigation into the available mitigating evidence. Given trial counsel's failure to conduct an adequate mitigation investigation, there is a strong possibility that Mr. Stanko has a viable ineffective assistance of

counsel claim under *Sears*, *Porter*, *Wiggins*, *Williams*, and *Strickland*. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7, commentary ("Counsel cannot responsibly advise a client about the merits of different courses of action [and] the client cannot make informed decisions . . . unless counsel has first conducted a thorough investigation.") (citing *Wiggins*, 539 U.S. 510; *Williams*, 539 U.S. at 395-96). A mitigation investigator is imperative to assist in the arduous task of exhaustively researching Mr. Stanko's life history in order to present this Court with evidence of the constitutional violation. This Court must, therefore, authorize funds for a mitigation investigator as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

An affidavit from mitigation specialist Drucy A. Glass is attached. The affidavit details Ms. Glass' experience in the field of mitigation investigation in capital cases. Undersigned counsel have conferred with Ms. Glass regarding Mr. Stanko's case and agree with Ms. Glass that the estimated expenditure of 200 hours is reasonably necessary to conduct the required mitigation investigation in this case. Ms. Glass' rate for her services is $75 per hour, which is reasonable given her experience and the complexities of mitigation investigation in capital cases.

V. FACTS AND ARGUMENT RELEVANT TO REQUEST FOR A FORENSIC PSYCHOLOGIST.

Mr. Stanko's mental health has been an issue in his case from the very beginning. Mr. Stanko has a high IQ of 143 and little history of violent behavior. The crimes Mr. Stanko was accused of, however, were extremely violent and poorly planned. The crimes, occurring when Mr. Stanko was in his late thirties, were an aberration, reflecting little of Mr. Stanko's known character. This immediately alerted trial counsel to consider a mental illness explanation for Mr. Stanko's actions. However, undersigned counsel's preliminary investigation reveals that trial counsel's inquiry into Mr. Stanko's mental health was inadequate in that counsel settled on a

theory that Mr. Stanko is a psychopath early on in their preparation for trial. Trial counsel's focus on this theory resulted in a curtailed mitigation investigation, as detailed above, and the failure of trial counsel to direct mental health experts to consider the relationship between Mr. Stanko's life history and brain damage and/or mental illness. Trial counsel utterly failed to present the jury with an overview of Mr. Stanko's life history. Trial counsel did not call any family members and called few friends, teachers, or employers.[4] Even the mitigation witnesses trial counsel did call were not people with the most relevant information regarding Mr. Stanko's mental health.

"Mental health experts are essential to defending capital cases." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1, commentary. Jurors making a determination of the punishment for a defendant often find "the defendant's psychological and social history and his emotional and mental health [to be] of vital importance." *Id.* Given the fact that trial counsel prematurely abandoned investigation into Mr. Stanko's life history and its effect on Mr. Stanko's mental health, there is a strong possibility that Mr. Stanko has a viable claim for ineffective assistance of counsel under *Sears, Porter, Wiggins, Williams*, and *Strickland.* The assistance of a forensic psychologist is necessary to assist counsel in developing an understanding of Mr. Stanko's life history as it correlates to his mental health and presenting related issues to this Court in support of his post-conviction relief claims. This Court must, therefore, authorize funds for a forensic psychologist as they are "reasonably

[4] Trial counsel also failed to even interview the appropriate people in Mr. Stanko's life to develop a full understanding of his life history and mental health. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7, commentary ("It is necessary to locate and interview the client's family members (who may suffer from some of the same impairments as the client), and virtually everyone else who knew the client and his family, including neighbors, teachers, clergy, case workers, doctors, correctional, probation, parole officers, and others.").

necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

The current CV of forensic psychologist Dr. Susan Knight is attached. Undersigned counsel have conferred with Dr. Knight about being retained on Mr. Stanko's case. She is willing and able to assist counsel in Mr. Stanko's case. Counsel have conferred with Dr. Knight and estimate that expenditure of approximately 60 hours is reasonably necessary to conduct the required evaluation in this case. Dr. Knight's rate is $250 per hour for clinical services and $125 per hour for travel outside of the Charleston area. Dr. Knight's rates are reasonable given her experience and the fact that, in counsel's experience, the rates are on the low end of the average rates charged by expert forensic psychologists in South Carolina.

VI. SUMMARY OF REQUESTED EXPENDITURES.

For all of the reasons set forth above, Mr. Stanko requests the following expenditures:

Fact Investigator

To investigate evidence presented in aggravation at Mr. Stanko's trial and possible juror bias and to identify issues related to the investigation, Mr. Stanko requests authorization for the initial expenditure of $10,000 to retain the services of a fact investigator to be paid at the rate of $50 per hour.

Mitigation Investigator

To exhaustively research and investigate Mr. Stanko's life history, including obtaining family records from the United States military and interviewing Mr. Stanko's out-of-state siblings, and to assist post-conviction counsel in presenting mitigating circumstances, Mr. Stanko requests authorization for the initial expenditure of $15,000 dollars and reasonable expenses to retain the services of a mitigation specialist to be paid at the rate of $75 per hour.

Forensic Psychologist

To investigate, evaluate, and develop an understanding of the correlation between Mr. Stanko's life history and his mental health and to assist post-conviction counsel in presenting mitigating evidence related to Mr. Stanko's life history and mental health, Mr. Stanko requests authorization for the initial expenditure of $15,000 and reasonable expenses to retain a forensic psychologist to be paid at a rate of $250 per hour for clinical services and $125 per hour for travel outside of the Charleston area.

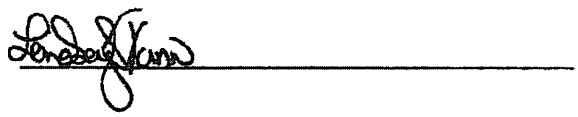
At this time, undersigned counsel are not aware of any additional investigators or experts who may be necessary for the adequate development and presentation of Mr. Stanko's claims for post-conviction relief. However, it is often the case that additional claims and corresponding needs arise as a capital post-conviction investigation progresses over time. In the event that counsel later becomes aware of a need for additional expert or investigative services, counsel will notify this Court in writing via a second motion for funding. Moreover, the specific funding requests included in this motion represent counsel's best effort, in consultation with the respective experts and investigators, to estimate the amount of time reasonably necessary to adequately investigate and present Mr. Stanko's claims. At this early stage in the investigation, however, it is often difficult to accurately predict the totality of the required funds, and it is not uncommon that counsel will need to file additional requests to make adjustments as necessary. Counsel will carefully monitor the progress of the investigation and the various expenditures required, and notify this Court in writing via additional funding motions if additional funds become necessary.

CONCLUSION

Wherefore, based on the above statements of facts and arguments, undersigned counsel respectfully request the intimal funds requested in this motion for expert services. [5]

April 1, 2014

Respectfully submitted,



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[5] A proposed order granting this motion is attached for the Court's consideration.

STATE OF SOUTH CAROLINA)
) AFFIDAVIT OF MARK B. HARRIS
COUNTY OF CHARLESTON)

Mark B. Harris, who appeared personally before me, affirms and states the following:

1. I am a Private Investigator duly licensed by the State of South Carolina.

2. I am an Attorney duly admitted in the State of New York since February 1977. I retired in May 2009.

3. While practicing as an attorney, I concentrated on and specialized in Criminal Law and Criminal Trial Practice. I was an Assistant District Attorney for over six years and was a part time Assistant Public Defender, while also maintaining a private practice, for over fifteen years.

4. In 1995, I joined the New York State Capital Defender Office which provided death penalty defense in New York State. For the first four years there, I was the lead trial counsel in the Albany, New York Office. For the last six years, I was the First Deputy Capital Defender and the head of the Albany Office, which had responsibility for providing capital defense in twenty-nine of New York's sixty-two counties. My office was comprised of four or five attorneys, three investigators, a paralegal, and office personnel.

5. As a defense attorney, I was involved in over twenty homicide cases, many of which went to trial. As a Capital Defender, I was involved in over thirty capital cases. Also, as a Capital Defender I attended, and occasionally lectured at, numerous trainings, death penalty conferences, and the Santa Clara Death Penalty College. There were lengthy discussions of investigation at all of these. As a Prosecutor, I was involved in approximately a dozen homicide cases often starting with going to the body at the scene.

6. In virtually all of the above homicide cases, I was directly involved with the investigation, doing it myself or working with and/or directing an investigator or investigators. I am a firm believer that investigation is a cornerstone to preparation and as such to seeing that justice is done.

7. Over my years as an attorney, in addition to my own cases, I was often consulted by other attorneys who had homicide cases, and I gave advice as to tactics, theories, defenses, and areas to be investigated.

8. While working in the Capital Defender Office, we had a particular mantra which was that investigation was not complete until the case was over. In the cases where there was not a plea and the trial resulted in a guilty verdict, the investigation continued until all appeals were extinguished.

9. In South Carolina, I have worked as an investigator on two PCR cases. I worked as a mitigation investigator on one case, and as a result of extensive fact and mitigation

investigation, there was information uncovered that had been missed by trial attorneys and was crucial to the issue of whether a death verdict was proper or legal. I worked as a fact investigator on the other case, which was before this Court—*State v. Winkler*.

10. I have discussed the case of *Stanko v. State* with Mr. Stanko's appointed PCR counsel. Counsel informed me that they reviewed the trial record for both of Mr. Stanko's capital trials, conducted a preliminary review of trial counsel's files, and began interviewing witnesses and jurors. As a result, counsel have already identified a number of issues for investigation as being of importance for post-conviction review of Mr. Stanko's case in Horry County.

11. It is my opinion that there is substantial fact investigation that is still required, much of which was not done at all by the trial attorneys. At this point, it appears that, at a minimum, there is a need for at least 200 hours of file review, conferencing with attorneys and the mitigation investigator, interviews, and field work.

12. My regular hourly rate is fifty dollars per hour, a rate I believe to be reasonable in light of the complexity of the case and in light of my experience in capital litigation.

I affirm, under the penalty of perjury, that the foregoing is true and correct to the best of my knowledge. Further affiant sayeth naught.

MARK B. HARRIS

Sworn to and subscribed before me
This 26th day of March, 2014

Notary Public for the State of South Carolina
My commission expires: 2/21/2024

COUNTY OF LEXINGTON
STATE OF SOUTH CAROLINA
AFFIDAVIT OF DRUCY GLASS

I, Drucy A. Glass, first being duly sworn do depose and say:

1. I am a Mitigation Specialist in the State of South Carolina. I have been working as a Mitigation Investigator/Specialist since 1990. I have a Bachelor of Arts Degree in Sociology from the University of South Carolina. I am also a licensed Baccalaureate Social Worker in the state of South Carolina.

2. Since 1990, I have worked on more than forty (40) Capital cases at both the trial level and the post-conviction level in State courts as well as Federal and Military courts.

3. The role of the Mitigation Specialist is to assist the attorneys in many areas related to the preparation of mitigation evidence for the penalty phase of the trial. Proper preparation of the mitigation in a death penalty case requires the following:

    a. Conducting a thorough social history investigation and compiling a multigenerational family chronology.

    b. Collection of multiple records from all aspects of the client's life including birth, childhood, and all medical records, educational records, employment records, mental health and psychiatric records, etc.

    c. Identifying and interviewing all potential penalty phase witnesses including multigenerational family members, friends, neighbors, physicians, mental health and social service personnel, co-workers, employers, wives, ex-wives, girlfriends, former girlfriends, teachers, coaches, past attorneys, police and sheriff personnel, DOC officers, etc.

    d. Further investigation of pertinent information discovered in collected documents and interviews.

e. Providing background materials, information, and documentation to experts to enable them to perform competent and reliable evaluations.

f. Ongoing contact and communication with the client and his family during the entire process.

4. The importance of a mitigation investigation flows from the constitutional requirement that there be individualized determination as to whether death is the appropriate penalty in any given case. In making the determination, the jury and the judge are required to consider not only the circumstances of the offense, but also all aspects of the client's life and personal attributes, including the milieu in which he or she was raised and the effects of the environment, his or her abilities, and or contributions to society, and the nature of the extent of any mental and medical impairments. The purpose of the mitigation investigation is to identify such factors.

5. For several reasons, locating and interviewing lay witnesses, especially family members is a sensitive endeavor, which requires exceptional time and patience. A primary reason is that, as with the client, family members frequently suffer from multiple impairments, including mental retardation, mental illness, and substance abuse. In addition, there are usually problems obtaining the trust of witnesses. In many cases lay witnesses are initially suspicious of talking to anyone about the client because it is assumed the purpose is to incarcerate or in other ways hurt the family members. Others are reluctant to reveal possibly painful and embarrassing facts regarding family history to a stranger. Consequently, a significant amount of time must be spent not only effectively evaluating and overcoming various impairments, but also in demonstrating one's sincere commitment to assisting the client. The limitations of the witnesses, combined with the length of the time between childhood and the time of the offense and trial (or post-conviction investigation or re-trial) necessitates the lay witnesses be interviewed on more than one occasion in order to obtain valid and reliable information.

6. The mitigation specialist is responsible for summarizing and analyzing documents and interview data, and for organizing and presenting information to the attorney and experts. Essential elements of this organization generally include preparation of chronologies and genograms. Chronologies are comprehensive, linear, documented summaries of all major conditions and life events and the effects of these life events on the client. Genograms are pictorial representations of family members revealing family histories of medical, psychological and social dysfunction.

7. Mitigation specialists require special knowledge and skill in the areas of collecting hard to find records, interviewing impaired clients and witnesses, mental illness, substance abuse, and addictions, trauma, indicators of physical and sexual abuse, grief reactions, and loss, and mediation negotiation. A competent mitigation specialist generally has additional training in the area of forensics, and basic investigative skills. I have attended numerous national and state training conferences and seminars in all the areas mentioned above.

8. A thorough mitigation investigation routinely requires between 200 and 400 hours over a period nine months to two years depending on the complexity of the case, the age of the client (and case), accessibility and location of family members and other lay witnesses, accessibility of records, the nature and extent of the impairment of the client and the availability of the expert witnesses. It is not possible to perform a competent investigation in the absence of adequate time and resources.

9. I have been asked by the attorneys who represent Stephen Christopher Stanko to be retained as a Mitigation Specialist in the Horry County post-conviction relief case of **STEPHEN CHRISTOPHER STANKO v. STATE OF SOUTH CAROLINA.**

10. Since being contacted by the attorneys for Mr. Stanko's post-conviction relief case, I have discussed the case with Mr. Stanko's appointed counsel, met with Mr. Stanko, conducted a preliminary review of the mitigation evidence collected by trial counsel, and conducted preliminary investigation by locating

and making initial contact with various members of Mr. Stanko's family.

11. Given the complexity of the case and the limited nature of trial counsel's mitigation investigation, I believe a thorough mitigation investigation in this case will require, at a minimum, 200 hours of work.

12. As a mitigation specialist in South Carolina, my fee is $75.00 per hour. In light of my experience and the complexities of conducting mitigation investigation in a post-conviction relief case, this rate is reasonably necessary to enable me to complete a competent and thorough mitigation investigation. I have been retained as a Mitigation Specialist at this rate in numerous post-conviction relief cases around the State of South Carolina, including in *State v. Winkler* in this Court.

13. It is known that two of Mr. Stanko's siblings and other family members live out of State which will possibly require additional travel time and expense. I will inform counsel for Mr. Stanko of the necessity of these expenses and of the specific costs to be incurred so they may seek approval from the Court specifically for these expenses.

I affirm, under the penalty of perjury, that the foregoing is true and correct to the best of my knowledge. Further affiant sayeth naught.

Drucy A. Glass

Drucy A. Glass

Sworn to and Subscribed before me
this 31st day of March, 2014.

Notary Public of State of South Carolina
My commission expires 6-19-16.

SUSAN C. KNIGHT, PH.D, ABPP

Telephone: (843) 637-5729; **Facsimile:** (843) 410-2802
Electronic Mail: knight@apsforensic.com
Mailing Address: 1739 Maybank Hwy., Ste. T-606, Charleston, SC 29412

EDUCATIONAL HISTORY:

September 2004 - August 2005	**Postdoctoral Fellowship in Forensic Psychology** University of Southern California Keck School of Medicine Dept. of Psychiatry & Behavioral Sciences USC Institute of Psychiatry & Law P.O. Box 86125 Los Angeles, CA (ACGME Accredited)
September 2003 - August 2004	**Pre-doctoral Internship in Forensic Psychology** U.S. Department of Justice (USDOJ)/Bureau of Prisons Federal Correctional Complex and Medical Center Butner, NC (APA Accredited Internship)
August 1999 - August 2004	**Doctorate of Philosophy, Clinical Psychology** University of Louisville, Louisville, KY Department of Psychological and Brain Sciences (APA Accredited Program)
August 1999 - May 2002	**Master of Arts, Clinical Psychology** University of Louisville, Louisville, KY Department of Psychological and Brain Sciences [Degree embedded within the Clinical Psychology Doctoral program, APA Accredited]
August 1994 - May 1998	**Bachelors of Arts, Psychology, *Magna Cum Laude*** Trinity University, San Antonio, TX

PROFESSIONAL LICENSURE:

- Psychologist, State of North Carolina, License #3407 [June 2007]
- Psychologist, State of South Carolina, License #1053 [May 2007]

BOARD CERTIFICATION:

- ABPP- Board certification in Forensic Psychology awarded by the American Board of Professional Psychology (ABPP) [April 2009]

PROFESSIONAL EXPERIENCE

Clinical and Forensic Psychologist — **August 2013 - Present**
Applied Psychological Services, LLC
1739 Maybank Hwy., Ste. T-606
Charleston, SC 29412

Conduct comprehensive forensic psychological evaluations on a wide variety of criminal and civil issues, to include, but not limited to, competency to stand trial, criminal responsibility, violence risk assessments, sexual behavior assessments, sentencing/mitigation, and fitness for duty evaluations. Provide clinical therapeutic services to an adult outpatient population.

Clinical Assistant Professor of Forensic Psychiatry — **August 2013 - Present**
Community and Public Safety Psychiatry Division
Department of Psychiatry and Behavioral Sciences
Medical University of South Carolina
29-C Leinbach Drive
Charleston, SC 29407

Responsibilities: Conduct comprehensive forensic psychological evaluations on a wide variety of criminal and civil issues, and provide consultation to the county, state and federal court systems as necessary. Types of evaluations include competency to stand trial, criminal responsibility, violence risk assessments, sexual behavior assessments, and fitness for duty assessments for health care, public safety and transportation personnel. Provide instruction, teaching and supervision to forensic post-doctoral fellows, medical residents, interns and students on forensic and general clinical psychological issues.

Assistant Professor of Forensic Psychiatry — **January 2008-August 2013**
Associate Director of the Forensic Psychiatry Fellowship — **July 2008-August 2013**
Director of the Progressive Professionals Program (PPP) — **November 2010-August 2013**
Department of Psychiatry and Behavioral Sciences
Medical University of South Carolina
29-C Leinbach Drive
Charleston, SC 29407

Responsibilities: Conduct comprehensive psychological forensic evaluations on a wide variety of criminal and civil issues, and provide consultation to the county, state and federal court systems as necessary. Types of evaluations include competency to stand trial, criminal responsibility, violence risk assessments, sexual behavior assessments, and fitness for duty assessments for health care, public safety and transportation personnel. Provide clinical therapeutic services (therapy and psychological assessment) to a general outpatient population as needed. Provide instruction, teaching and supervision to forensic post-doctoral fellows, medical residents, interns and students on forensic and general clinical psychological issues.

Clinical Psychologist **April 2007- November 2007**
Grew, Morter and Hartye, P.A.
3141 John Humphries Wynd, Ste. 275
Raleigh, NC 27612

Responsibilities: Provided mental health services in a private practice setting to an outpatient population. Clinical duties included providing short and long term individual therapy, and conducting psychological assessments addressing a wide range of psychological issues. Forensic duties included conducting psycho-legal evaluations and providing consultation as needed for forensic issues.

Clinical Psychologist **September 2005-December 2006**
Los Angeles County Department of Mental Health
Century Regional Detention Facility- Los Angeles County Jail
Women's Forensic Outpatient Program (WFOP)
11705 S. Alameda St.
Lynwood, CA 90262

Responsibilities: Provided mental health services to a correctional population, including diagnostic intake interviews, brief therapy, crisis intervention services and psychological assessments. Forensic duties included managing patients in the Misdemeanant Incompetent to Stand Trial (MIST) program, including competency restoration and consultation with the mental health court system.

Forensic Psychologist (Contract Basis) **September 2006- December 2006**
Metropolitan Detention Center- Los Angeles
Federal Bureau of Prisons
535 N. Alameda St.
Los Angeles, CA 90012

Responsibilities: Conducted pre-trial and post-trial psychological forensic evaluations for the Federal Bureau of Prisons on a contract basis. Evaluations covered a variety of psycho-legal issues, including competency to stand trial, criminal responsibility, dangerousness evaluations and sentencing issues. Duties included interviews, psychological assessment, report writing and providing consultation and/or testimony to the Federal Court system as needed.

Forensic Psychologist **September 2006- December 2006**
USC-Keck School of Medicine
Institute of Psychiatry, Law and Behavioral Science
Los Angeles, CA 90086-0125

Responsibilities: Conducted forensic evaluations for the juvenile court system in Los Angeles addressing a variety of psycho-legal issues. Dutics included evaluations, report-writing and providing consultation to the Juvenile Court System.

Postdoctoral Fellow in Forensic Psychology **September 2004 –August 2005**
University of Southern California/Keck School of Medicine
Institute of Psychiatry, Law & Behavioral Science
P.O. Box 86125
Los Angeles, CA 90086-0125

Responsibilities: Conducted psychological and legal evaluations for attorneys and courts related to criminal delinquency and dependency issues; evaluation, psychological assessment, and treatment of mentally disordered offenders, including outpatient sex offender treatment. Received specialized training on how to conduct psychological autopsies for the Los Angeles County Coroner's Office.

Pre-doctoral Clinical Psychology Intern **August 2003 - September 2004**
Federal Correctional Complex- Butner
Old N.C. Hwy 75
Butner, NC 27509

Responsibilities: Worked in the forensic evaluation program at the Federal Medical Center and conducted federal pre-trial forensic evaluations which involved comprehensive psychological evaluation and report writing. Provided expert testimony to federal court. Worked in the Sex Offender Treatment Program (SOTP), an intensive, residential therapeutic program for male sexual offenders. Employed specialized assessment, didactic, and cognitive-behavioral techniques to evaluate, treat, and manage sexual offenders. Also conducted individual and group therapy, and assisted in managing the special needs of mental health inmates.

Graduate Student Therapist **May 2002- May 2003**
Outpatient Psychiatry/Ambulatory Care Building
550 S. Jackson St.
Louisville, KY 40202

Responsibilities: Conducted individual and group psychotherapy as well as psychological testing with a variety of patients presenting at a local hospital for psychological treatment. Conducted initial intake interviews with potential patients presenting for medication and therapy; provided diagnosis, case formulation and treatment recommendations.

Clinic Assistant **August 2000- June 2002**
University of Louisville/Psychological Services Center
Davidson Hall, Suite 210, Louisville, KY 40292

Responsibilities: Conducted initial assessment intake interviews with potential clients for the psychology clinic. Assisted in diagnosis, treatment recommendations, and disposition of clients to specialty clinic teams. Maintained client database and records for clinic operation. Coordinated clinic in-services (professional presentations) for students and psychological community at large. Maintained subject records and billing for ongoing research project.

Research Assistant **August 1999 - July 2000**
Central State Hospital/Dept. of Psychology
10510 La Grange Rd.
La Grange, KY 40223

Responsibilities: Collected and analyzed data related to program evaluation from all disciplines (nursing, medical staff, psychologists, social workers and pastoral staff). Created and maintained comprehensive research database tracking all patients with a diagnosis of Mental Retardation and all patients with guardians

Caseworker / Case Manager **May 1998 - December 1998**
Crosspoint, Inc.
605 Augusta St.
San Antonio, TX, 78215

Responsibilities: This facility provided a structured program of re-socialization for female adults primarily referred from federal correctional and health care facilities. Responsibilities included administration of direct services provided to clients on an individual and/or group basis. Consulted with, and managed interface to local support agencies when and where necessary on behalf of the client.

CLINICAL PRACTICA/PSYCHOTHERAPY EXPERIENCE

Graduate Student Therapist **August 1999 - May 2003**
University of Louisville/Psychological Services Center
Louisville, KY 40292

Responsibilities: Conducted individual therapy sessions and a wide variety of full psychological assessments with outpatient clients (adults and children).

Doctoral Practicum Student (Assessment & Therapy) **August 2000 - September 2002**
Kentucky State Reformatory
La Grange, KY 40032

Responsibilities: Conducted psychological testing and individual therapy for adult male inmates housed in the Correctional Psychiatric Treatment Unit at a medium security state prison. Compiled and analyzed sex offender data in the Sex Offender Risk Assessment Unit (SORA) at Kentucky State Reformatory.

ACADEMIC APPOINTMENTS:

- **Clinical Instructor** — **August 2004 - September 2005**
  University of Southern California
  Keck School of Medicine
  Department of Psychiatry and Behavioral Sciences
  Los Angeles, CA 90033

- **Adjunct Faculty** — **August 2006 – December 2006**
  University of Southern California
  Department of Psychology
  Los Angeles, CA 90089

- **Assistant Professor** — **January 2008 – August 2013**
  Medical University of South Carolina
  Department of Psychiatry, Charleston, SC 29425

- **Clinical Assistant Professor** — **August 2013- Present**
  Medical University of South Carolina
  Department of Psychiatry, Charleston, SC 29425

- **Adjunct Professor** — **May 2011- Present**
  Charleston School of Law
  Charleston, South Carolina

PROFESSIONAL AFFILIATIONS

- American Psychological Association (APA) [1999 to Present]
- American Psychology-Law Society (APLS) [2003 to Present)
- South Carolina Psychological Association (SCPA) [2008 to Present]
- American Board of Professional Psychology (ABPP) [2009 to Present]
- Association for the Treatment of Sexual Abusers (ATSA) [2012 to Present]
- American Association for Sexuality Educators Counselors and Therapists (AASECT) [2012 to Present]

POSTERS/PRESENTATIONS

1. Knight, S.C. & Einstein, G. (1996). *Aging and Retrieval Inhibition in Prospective Memory.* Paper presented at the National Convention of Undergraduate Research (NCUR) in the Spring of 1997 in Austin, TX.

2. Weaver, C.M., Bock, P., Knight, S. & Gretarsdottir, E. (1999, November). *Demographic Study of 1998 Jefferson County Kentucky Guardianship Population.* Poster presented at the annual meeting of the Kentucky Psychological Association, Louisville, KY. Poster was awarded second prize for graduate research.

3. Knight, S.C., Scanish, J., Fintel, T., & Meyer, R.G. (2002, August). *Characteristic of the Female Sex Offender.* Poster presented at the 2002 APA conference in Chicago, Illinois in the APLS (Division 41) of research.

4. Knight, S.C. (2006). *The Sex Offender's Brain: A review of the etiological evidence towards a neurobiochemical basis.* Lecture presented to faculty, staff and students at the University of Southern California, Department of Psychology, as part of the Continuing Education (CE) colloquia.

5. Mulbry, L. W. & Knight, S.C. (March 2008). *Competency to Stand Trial, Criminal Responsibility and Capacity to Conform.* Talk given to the Charleston County Solicitor's Office.

6. Knight, S.C. (September 2008). *Psychological Autopsy: Determining the Manner of Death Through Investigative Psychological Analysis.* Lecture presented to the Medical University of South Carolina, Department of Psychiatry, Division of Forensic Psychiatry, Day of Discovery conference.

7. Stroud, Z., Knight, S.C., Halavonich, R.H., & Mulbry, L.W. (October 2008). *Mass Shooters: An Antihero of our Time.* Presentation presented at the national American Academy of Psychiatry and Law (AAPL) conference in Seattle, WA.

8. Knight, S.C. (July 2009). *The MMPI-2: Fundamentals of Interpretation.* Lecture to the Medical University of South Carolina Psychology Internship Program

9. Knight, S.C. (November 2009). *The Disruptive Professional.* Presentation given to the Senior Medical Leadership Council of the South Carolina Hospital Association. Columbia, South Carolina.

10. Knight, S.C. (November 2009). *South Carolina Mental Health Law: How to Proceed with a Mentally Disordered Defendant.* Presentation to the South Carolina Bar Association Distance Learning Division. Columbia, South Carolina.

11. Knight, S.C. (November 2009). *Psychiatric Malpractice: A review of select South Carolina cases.* [Invited Speaker]. Presentation given at the Medical University of South Carolina, Forensic Interest Group Meeting. Charleston, South Carolina.

12. Knight, S.C. (January 2010). *South Carolina Mental Health Law: How to Proceed with a Mentally Disordered Defendant.* Workshop on competency to stand trial and criminal responsibility presented to attorney participants at the Medical University of South Carolina. Charleston, South Carolina.

13. Knight, S.C. (April 2010). *The Mentally Ill Offender: An Epidemic in Courts and Corrections.* [Invited Speaker]. Presentation at the 2010 Mental Health Professionals Collaboration held at the Medical University of South Carolina for mental health professionals statewide. Charleston, South Carolina.

14. Knight, S.C. & Mulbry, L.W. (October 21, 2010). *Automatism: A 15-year review of criminal appellate case law.* Scientific paper presentation at the national American Academy of Psychiatry and Law (AAPL) conference in Tucson, AZ.

15. Knight, S.C. (October 29, 2010). *South Carolina Mental Health Law: How to Proceed with a Mentally Disordered Defendant.* Workshop on competency to stand trial and criminal responsibility presented to the Berkeley County Public Defender's Office.

16. Knight, S.C. & Mulbry, L.W. (January 30, 2011). *School Shooters: A Unique Class of Violent Offenders.* [Invited Speaker]. Presentation to the South Carolina Psychiatric Association (SCPA) statewide conference in Charleston, SC.

17. Knight, S.C. (June 2011). *Legal Insanity and Competence.* [Invited Speaker]. Update in Psychiatry-Mental Illness, Victimization and Criminal Justice. A Forum for Clinicians, Policymakers, Judges, Attorneys and Law Enforcement. Charleston, South Carolina.

18. Knight, S.C. (June 2011). *Relationship Between Mental Illness and Criminal Behavior. Update in Psychiatry-Mental Illness, Victimization and Criminal Justice.* [Invited Speaker]. A Forum for Clinicians, Policymakers, Judges, Attorneys and Law Enforcement. Charleston, South Carolina.

19. Beck, B., Knight, S.C., & Mulbry, L.W. (October 2012). *Robotripping: Dextromethorphan's Link to Violent Crime, Rising Use and Emergent Legislation.* Poster presented at the national meeting of the American Academy of Psychiatry and Law (AAPL), Montreal, Canada.

20. Knight, S.C. (December 2012). *Sexual Predators: Pathology and the Law.* [Invited Speaker]. Judges and Attorneys Substance Abuse and Ethics Seminar, Medical University of South Carolina, Charleston, South Carolina.

21. Knight, S.C. (December 2012). *Legal Competence.* [Invited Speaker]. Judges and Attorneys Substance Abuse and Ethics Seminar, Medical University of South Carolina, Charleston, South Carolina.

22. Knight, S.C. (April 2013). *Legal Competence: Civil Competencies.* [Invited Speaker]. South Carolina Association of Probate Judge's Conference. Columbia, South Carolina.

23. Beck, B., Knight, S. C. & Mulbry, L.W. *Revisions in Gun and Mental Health Laws in the Wake of Newtown.* Poster accepted for presentation at the October 2013 national meeting of the American Academy of Psychiatry and Law (AAPL), San Diego, California.

24. Knight, S.C. (September 2013). *Workplace Violence: Assessment, Intervention and Prevention.* [Invited Speaker]. A Psychiatric Update: Annual conference held by the South Carolina Department of Mental Health.

25. Knight, S.C., Mulbry, L.W., Mullis, D. & Fields, C. (October 2013). *Guns and Psychiatry: Disarming the Mentally Ill.* Grand Rounds Presentation, Medical University of South Carolina, Department of Psychiatry and Behavioral Science.

26. Knight, S.C. (December 2013). *Ethical Considerations in Forensic Evaluations.* [Invited Speaker]. Judges and Attorneys Substance Abuse and Ethics Seminar, Medical University of South Carolina, Charleston, South Carolina.

PUBLICATIONS

1. Oliver, J. M., Knight, S.C., Weaver, C.M., Boyd, A.R. & Meyer, R.G. (2000). Attitudes of board certified forensic psychologists toward critical issues in forensic psychology and the legal system. *Bulletin of the American Academy of Forensic Psychology, 21 (1)*, 8-10.

2. Oliver, S.C., Knight, S.C., Weaver, C.M. & Meyer, R.G. (2001). Attitudes of forensic practitioners about competency to stand trial evaluations: Theoretical and practical considerations. *Bulletin of the American Academy of Forensic Psychology, 22 (1),* 20-22.

3. Knight, S.C. & Meyer, R.G. (2003). Gender Identity Disorder: The Case of Bruce/Brenda. In R.G. Meyer's, *Case Studies in Abnormal Behavior (6th ed.),* (pp. 134-140). Boston: Allyn & Bacon.

4. Knight, S.C. & Meyer, R.G. (2007). Forensic Hypnosis. In A. M. Goldstein's (Ed.) *Forensic Psychology: Emerging Topics and Expanding Roles*, NY: Wiley.

5. Gomez, A. & Knight, S.C. (2013). Disclosure of Mental Health Records in Court-Mandated Outpatient Treatment Proceeding and the Health Insurance Portability and Accountability Act (HIPPA). *Journal of the American Academy of Psychiatry and Law.* Vol. 41: 460-641.

State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

P. O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
Georgetown, South Carolina
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Email: bculbertsonj@sccourts.org

April 29, 2014

Via U.S. Mail and Email Delivery

PERSONAL & CONFIDENTIAL
Emily C. Paavola, Esquire
Lindsey S. Vann, Esquire
Death Penalty & Defense Center
P.O. Box 11311
Columbia, SC 29211

Email: Emily@deathpenaltyresource.org
Email: Lindsey@deathpenaltyresource.org

RE: *Stephen C. Stanko, #6022 v. State of South Carolina*
Case Number: 2014-CP-26-035

Dear Ms. Paavola and Ms. Vann:

Please find enclosed the original order partially granting and partially denying your *ex parte* motion for expert and investigative fees in the above referenced case. Law authorizes your request to be made *ex parte* so that you can disclose with necessary specificity the facts supporting your request. As you can see from the order, I denied your request for a fact investigator and forensic psychologist because the alleged facts supporting your request were too general.

With kindest regards, I remain

Very truly yours,

Benjamin H. Culbertson

BHC/bhc
Enclosure (a/s)

STATE OF SOUTH CAROLINA)) COUNTY OF HORRY)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
Stephen C. Stanko, #6022,)) Applicant,)) vs.)) State of South Carolina,)) Respondent.))	Case No. 2014-CP-26-035 ***EX PARTE*** **TO BE FILED UNDER SEAL** **ORDER AUTHORIZING FUNDING FOR EXPERT AND INVESTIGATIVE SERVICES**

Applicant Stephen C. Stanko ("Applicant") is an indigent, death-sentenced inmate. He is seeking post-conviction relief ("PCR") from his convictions and sentence. This matter comes before this Court in an *ex parte* proceeding authorized pursuant to S.C. Code Ann. § 17-3-50(B) and *Ex Parte Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994), due to the confidential nature of the matters herein. Based on Applicant's motion setting forth with particularity the reasons for each request, supporting affidavits of Mark Harris and Drucy Glass, and a current C.V. of Dr. Susan Knight, this Court finds that some of these expenditures are appropriate because the services sought are reasonably necessary. S.C. Code Ann. § 17-27-160(C) (incorporating the funding provisions of Code § 16-3-26 which provides that the court shall order the payment of fees and expenses "[u]pon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant"); *see also, e.g.*, U.S. Const. amends V, VI, VII, XIV; S.C. Const. arts. I, III, XIV; S.C. Code § 17-27-160; *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992); S.C. App. Ct. R. 602. However, this court denies the Applicant's request for certain funding as well.

1

The Applicant did not request a hearing on this motion and the Court decides this motion without a hearing per the Court's February 21, 2014 scheduling order.

I. LEGAL BASIS FOR AUTHORIZING THE EXPENDITURE OF FUNDS IN EXCESS OF THE STATUTORY LIMITS.

The South Carolina legislature has provided that indigents seeking post-conviction relief from capital judgments are entitled to expert assistance upon an *ex parte* finding by the court that such services are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26, 17-27-160(B); *see also* Rule 602(g)(6), SCACR ("In post-conviction relief matters, expenses related to representation and fees of appointed counsel may be paid where permitted and as prescribed in these Rules and the Defense of Indigents Act.").

The right to file an application for post-conviction relief, and the right to the assistance of counsel when doing so, are hollow in the absence of the concomitant right of an indigent applicant to receive funding for expert and investigative services where appropriate. *Williams v. Martin*, 618 F.2d 1021, 1025 (4th Cir. 1980) (explaining that "[t]he quality of representation at trial may be excellent and yet valueless to the defendant if his defense requires . . . the services of a[n] . . . expert and no such services are provided") (citing ABA Standards, Providing Defense Services, commentary, 22-23 (App. Draft 1968)). The state is required to "provide the 'basic tools' for an adequate defense to an indigent defendant." *Bailey*, 309 S.C. at 459, 424 S.E.2d at 506 (citing *Ake v. Oklahoma*, 470 U.S. 68 (1985)). Namely, it is the state's duty to "ensure that the defendant has . . . [funding for] the services of experts necessary to a meaningful defense." *Id.* This duty extends to the post-conviction context as well. Indeed, the United States Supreme Court specifically recognized that "the right to counsel [in federal habeas corpus proceedings] necessarily includes a right for that counsel meaningfully to research and present a defendant's habeas claims." *McFarland v. Scott*, 512 U.S. 849, 858 (1994).

The ability to retain the services of experts and investigative assistance in various areas is particularly essential in capital cases. A capital case "is an extraordinary proceeding" where "the attorney is charged with the awesome responsibility of defending a person's life." *Bailey*, 309 S.C. at 460, 424 S.E.2d at 506. To prepare for the guilt or innocence phase of a capital trial, an attorney must vigorously and thoroughly investigate the facts and circumstances of the alleged crime, which often requires the assistance of various experts. *See id.* (recognizing that unlike the solicitor, the defense attorney does not have "the entire array of state, county, and municipal law enforcement" at his disposal). Just as assistance is imperative in the guilt or innocence phase of a capital case, it is equally necessary during the sentencing phase where counsel is challenged by novel and complex issues. *See id.* at 461, 424 S.E.2d at 506-07. Due to the finality and irrevocability of the penalty of death, the United States Supreme Court has stressed the "need for reliability in the determination that death is the appropriate punishment in a specific case." *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976). In order to ensure that the appropriate sentence is chosen, the Court has emphasized the importance of presenting to the sentencing body the fullest information possible concerning the defendant's life and characteristics. *See Lockett v. Ohio*, 438 U.S. 586, 605 (1978) (plurality opinion) (holding that preventing the sentencer in a capital case from considering the defendant's characteristics "creates the [unacceptable] risk that the death penalty will be imposed in spite of factors which may call for a less severe penalty"); *see also Jurek v. Texas*, 428 U.S. 262, 271 (1976) (asserting that the sentencing body must have before it all possible relevant information about the individual whose fate it must determine).

Thus, in capital cases, defense counsel has a duty to vigorously investigate and present mitigating evidence. *See Sears v. Upton*, 130 S. Ct. 3259, 3264 (2010); *Williams v. Taylor*, 529

U.S. 362, 393 (2000). This duty requires that counsel's investigations into mitigating evidence "should comprise efforts to discover *all reasonably available* mitigating evidence and evidence to rebut any aggravating evidence that may be introduced by the prosecutor." *Wiggins v. Smith*, 539 U.S. 510, 524 (2003) (quoting ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 11.4.1(C), p. 93 (1989)); *see also Padilla v. Kentucky*, 559 U.S. 356, 366 (2010) ("We long have recognized that prevailing norms of practice as reflected in American Bar Association standards and the like . . . are guides to determining what is reasonable." (internal quotation marks omitted)).

Post-conviction counsel must "continue an aggressive investigation of all aspects of the case." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.15.1(E)(4); *see also id.* 10.15.1(E)(4) commentary ("[C]ollateral counsel cannot rely on the previously compiled record but must conduct a thorough, independent investigation."). Post-conviction counsel must review the record and conduct investigation to determine whether the applicant's conviction or sentence are "in violation of the Constitution of the United States or the Constitution or laws of this state." S.C. Code § 17-27-20(A)(1). This responsibility necessarily includes determining whether the applicant received ineffective assistance of counsel during his trial. *See Strickland v. Washington*, 466 U.S. 668 (1984). If trial counsel's decision to end investigation, including mitigation investigation, was either inconsistent with professional standards or unreasonable because known information should have led counsel to investigate further, a capital defendant may have a valid claim of ineffective assistance of counsel. *See Sears*, 130 S. Ct. at 3264; *Wiggins v. Smith*, 539 U.S. 510, 533-34 (2003); *Strickland*, 466 U.S. 688, 690-91 (1984). When evaluating *Strickland* claims, courts "evaluate the totality of the

evidence—'both that adduced at trial, *and the evidence adduced in the habeas proceeding[s].*'" *Wiggins*, 539 U.S. at 536 (quoting *Williams*, 529 U.S. at 397-98).

II. FINDINGS OF FACT RELEVANT TO MOTION FOR AUTHORIZATION TO EXPEND FUNDS FOR EXPERT SERVICES.

The Applicant was convicted and sentenced to death by an Horry County jury in connection with the April 8, 2005 murder and armed robbery of Henry Turner.[1] *State v. Stanko*, 402 S.C. 252, 258, 741 S.E.2d 708, 711 (2013). On direct appeal, the Supreme Court of South Carolina affirmed the conviction and sentence. *Id.* The Applicant subsequently moved for a stay of execution in order to pursue post-conviction relief. The Supreme Court of South Carolina issued a stay of execution and assigned these PCR proceedings to this Court. Order, *State v. Stanko*, No. 2010-154746 (S.C. Nov. 7, 2013). This Court appointed Emily C. Paavola and Lindsey S. Vann as counsel to represent Mr. Stanko on February 4, 2014. On February 21, 2014 this Court entered a Scheduling Order in this PCR action. The trial of this PCR case is scheduled for November 3, 2014.

PCR counsel for the Applicant represent they have been diligently working on this matter since their appointment on February 4, 2014 and based on the totality of circumstances in this case—including counsel's review of the record, initial meetings with the Applicant, and preliminary investigation—counsel have requested the expert services of a fact investigator, a mitigation investigator, and a forensic psychologist to assist in investigating and presenting Applicant's claims for post-conviction relief. Specifically, counsel requests $10,000 for a fact investigator, $15,000 for a mitigation investigator, and $15,000 for a forensic psychologist.

[1] Applicant was also convicted of murder and other charges in Georgetown County in connection with the April 7, 2005 murder of Laura Ling and sexual assault of Ms. Ling's teenage daughter. Mr. Stanko was sentenced to death for the murder of Laura Ling on August 18, 2006. *See State v. Stanko*, 376 S.C. 571, 658 S.E.2d 94 (2008). The Georgetown County convictions and sentence are currently the subject of a post-conviction relief proceeding in Georgetown County. Counsel in this action do not represent Mr. Stanko in connection with his Georgetown County proceedings.

III. REQUESTED EXPENDITURES.

a. FACT INVESTIGATOR.

PCR counsel submit that their preliminary review of the trial record, court exhibits, portions of trial counsel's files, interviews with the Applicant, and interviews with a majority of the jurors at the Applicant's criminal trial have revealed a number of factual issues in need of investigation. PCR counsel argue that one juror who decided the Applicant's fate at his criminal trial recently revealed new facts which, if true, suggest the possibility of juror bias, juror misconduct, and the inadequate assistance of counsel during jury selection. However, PCR counsel does not state what the "new facts" are that need investigating. This court finds that expenses for investigation of unspecified "new facts which, if true, suggest the possibility" of bias, misconduct and the inadequate assistance of counsel are neither reasonable nor necessary to provide the Applicant adequate representation in this action for post-conviction relief.

Counsel further indicate that a review of trial counsel's files and interviews with the Applicant reveal that trial counsel did not fully investigate the incidents presented by the state at trial in which the Applicant was portrayed as a con-man with violent tendencies. The prosecution presented multiple witnesses who described instances where the Applicant created fraudulent schemes by presenting himself as a lawyer or a person able to help with legal or business matters, taking money for his work but not completing the work he promised. Applicant's counsel argue that their initial investigation indicates that some of this testimony presented by the state "may" have been false or misleading, without stating specifically what the alleged false or misleading testimony was. Therefore, this court finds that expenses for investigation of unspecified trial testimony that "may" have been false or misleading are not reasonable or necessary to provide the Applicant adequate representation in this PCR action.

For the reasons set forth above, the Applicant's motion for expenses for a fact investigator is DENIED.[2]

b. MITIGATION INVESTIGATOR.

PCR counsel further submit their preliminary review of the trial record, court exhibits, portions of trial counsel's files, and preliminary interviews with the Applicant and the mitigation investigator retained for the Georgetown County trial have revealed that trial counsel unreasonably limited their mitigation investigation. Thus, an adequate mitigation investigation was never conducted in this case. Specifically, counsel's initial investigation makes clear that trial counsel committed to presenting the Applicant as an insane psychopath early on in the course of preparation for the Georgetown County trial. As a result of this trial theory, trial counsel chose to present evidence tending to show the Applicant as a psychopath and curtailed mitigation investigation, believing that evidence of the Applicant's good character or other mitigating evidence contradicted the theory that he was a psychopath.[3] During the Applicant's criminal trial, trial counsel did not retain a mitigation investigator, though trial counsel apparently asked a fact investigator, who did not have training or experience in mitigation investigation, to conduct mitigation investigation. Therefore, negligible mitigation investigation was conducted prior to the Applicant's criminal trial.

PCR counsel aver that a mitigation specialist is necessary to focus and direct the investigation of the Applicant's life history and to uncover any mitigating factors that might exist. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty

[2] Nothing herein shall prohibit the Applicant from seeking expenditures for a fact investigator in the future by presenting to the court, *ex parte*, specific allegations of jury misconduct, false trial testimony, etc.

[3] Counsel submit their initial investigation reveals trial counsel knew, or should have known, that presenting evidence of psychopathy was not a reasonable trial strategy in either the guilt or penalty phase. Regardless of the reasonableness of the strategy, counsel assert that trial counsel failed to conduct an adequate investigation prior to settling on a trial strategy, creating a significant likelihood that the Applicant has a viable claim for ineffective assistance of counsel under *Sears*, *Porter*, *Wiggins*, *Williams*, and *Strickland*.

Cases 4.1(A), commentary ("A mitigation specialist is . . . indispensable. . . throughout all capital proceedings" because "[m]itigation specialists possess clinical and information-gathering skills and training that most lawyers simply do not have."); *see also id* 10.4(C)(2)(a). According to PCR counsel, a mitigation specialist is especially necessary in this case because the Applicant's father was in the military when he was a child. Records for the Applicant and his family are, therefore, in many different locations and in the custody of the United States military. A mitigation specialist with experience in complex record collection is necessary to complete a full investigation into the Applicant's life history. *Id.* 10.7, commentary ("Counsel should use all appropriate avenues . . . to obtain all potentially relevant information pertinent to the client, his or her siblings and parents, and other family members including but not limited to . . . medical records [and] military records."). Additionally, PCR counsel submit that the Applicant has three living siblings, two of whom live outside of South Carolina. A mitigation expert is needed to develop a relationship with each of these siblings in order to obtain an understanding of the Applicant's life growing up, the character of the Applicant's now-deceased parents, and the effect the untimely death of one of the Applicant's brothers had on the Applicant. *See id.* 10.7, commentary ("It is necessary to locate and interview the client's family members.").

In order to conduct a thorough mitigation investigation, counsel request authorization for the expenditure of $15,000 to retain the services of mitigation specialist Drucy A. Glass. Counsel have conferred with Ms. Glass regarding Mr. Stanko's case and agree with Ms. Glass that the estimated expenditure of 200 hours is reasonably necessary to conduct the required mitigation investigation in this case. Ms. Glass' rate for her services is $75 per hour, which this Court finds is reasonable given her experience and the complexities of mitigation investigation in capital cases.

c. **FORENSIC PSYCHOLOGIST.**

Finally, PCR counsel assert that the Applicant's mental health has been an issue in his case from the very beginning. PCR counsel argue that the Applicant has a high IQ of 143, little history of violent behavior and that the crimes for which the Applicant was convicted were extremely violent and poorly planned. PCR counsel further argues that the crimes, occurring when the Applicant was in his late thirties, were an aberration, reflecting little of the Applicant's known character. This immediately alerted the criminal trial counsel to consider a mental illness explanation for the Applicant's actions. However, PCR counsel argues that their preliminary investigation reveals that trial counsel's inquiry into the Applicant's mental health was inadequate in that trial counsel settled on a theory that the Applicant is a psychopath early on in their preparation for trial. Trial counsel's focus on this theory resulted in a curtailed mitigation investigation, as detailed above, and the failure of trial counsel to direct mental health experts to consider the relationship between the Applicant's life history and brain damage and/or mental illness. PCR counsel aver that trial counsel failed to present the jury with an overview of the Applicant's life history. Trial counsel did not call any family members and called few friends, teachers, or employers. Counsel assert that even the mitigation witnesses trial counsel did call were not people with the most relevant information regarding the Applicant's mental health.

Notwithstanding PCR counsels' argument regarding the Applicant's mental health, this court finds that expenses for a forensic psychologist are not reasonable or necessary without more substantial indications that the Applicant suffers a mental illness other than being a psychopath. The court notes that the Applicant's criminal trial counsel presented testimony from seven experts in support of their defense of insanity. Based upon PCR counsels' argument in support of its motion for forensic psychologist expenses, this court assumes that none of the

seven experts testifying on the Applicant's behalf during his criminal trial were of the opinion that the Applicant suffered a mental illness other than being a psychopath.

Based upon the above, the Applicant's motion for expenses for a forensic psychologist is DENIED.[4]

IV. CONCLUSION

After reviewing the relevant statutory provisions, this Court specifically finds: (1) that the legislature has authorized death-sentenced applicants for post-conviction relief to obtain funds for reasonably necessary expert and investigative services; (2) that this Court is empowered to authorize the expenditure of funds if applicant can show that such expenditures are reasonably necessary in the case, and; (3) that the expenditures requested by the applicant are reasonably necessary for the representation of the Applicant.

ORDER

NOW, THEREFORE, based on the findings of fact and conclusions of law detailed herein, it is hereby

ORDERED, that the Applicant's motion for funding a mitigation investigator is **GRANTED** as follows:

> This Court finds that expenditure of the requested funds for a mitigation investigator is reasonably necessary for the representation of Applicant and orders that the Commission on Indigent Defense provide Applicant with state funds not to exceed $15,000.00 to secure the services of a mitigation investigator. The Commission on Indigent Defense will disburse the funds to the Applicant after invoices have been submitted to them, and have been approved for payment. This authorized expenditure establishes the maximum amount to be expended exclusively for a mitigation investigator without additional authorization from this Court.

[4] Nothing herein shall prohibit the Applicant from seeking expenditures for a forensic psychologist in the future by presenting to the court, *ex parte*, specific indications of mental illness other than psychopathy.

IT IS FURTHER ORDERED the Applicant's motion for funding a fact investigator is **DENIED.**

IT IS FURTHER ORDERED the Applicant's motion for funding a forensic psychologist is **DENIED.**

IT IS FURTHER ORDERED that this Order shall be sealed by the Clerk of Court and/or the Office of Indigent Defense on behalf of the Clerk of Court since this order deals with confidential defense matters. S.C. Code § 16-3-26(C); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982).

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

AND IT IS SO ORDERED.

Benjamin H. Culbertson
Presiding Circuit Judge

April 29, 2014
Georgetown, SC

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
Stephen C. Stanko, #6022,	)	
	)	Case No. 2014-CP-26-035
Applicant,	)	
	)	
vs.	)	**EX PARTE**
	)	**TO BE FILED UNDER SEAL**
State of South Carolina,	)	**APPLICANT'S MOTION TO RECONSIDER ORDER AUTHORIZING FUNDING FOR EXPERT AND INVESTIGATIVE SERVICES**
	)	
Respondent.	)	
	)	

Applicant, Stephen Stanko, respectfully moves this Court to reconsider its April 29, 2014 Order Authorizing Funding for Expert and Investigative Services ("Order"). Specifically, Stanko asks the Court to reconsider its denial of funds for factual investigative services, in the amount of $10,000, and for a forensic psychologist, in the amount of $15,000.[1] Stanko submits that the Court should reconsider its Order in light of the specific facts, detailed below, that demonstrate the necessity of retaining a factual investigator and forensic psychologist in this case.

The funds requested are necessary to provide Stanko with constitutionally and statutorily adequate resources to pursue his post-conviction relief action. *See, e.g.*, U.S. Const. amends V, VI, VII, XIV; S.C. Const. arts. I, III, XIV; S.C. Code § 17-27-160; *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992); S.C. App. Ct. R. 602. Stanko reserves the right to move for additional funds as they become necessary.

This motion is *ex parte* as authorized by state law and the Court's Order. S.C. Code Ann. §§ 16-3-26(C), 17-27-160(B); Order, Apr. 29, 2014, at 7 n.2, 10 n.4. Stanko requests that this

[1] The Court's Order explicitly invites Stanko to move for reconsideration and to provide additional information in support of these requests. Order, Apr. 29, 2014, at 7 n.2, 10 n.4.

Court order this motion sealed and not filed in the public record of this proceeding or disclosed in any manner to the State or its attorneys.[2]

The factual bases for this motion are set forth below. For a discussion of the procedural background and legal basis for authorizing expenditure of the requested funds, please see Applicant's *Ex Parte* First Motion to Authorize Funding for Expert and Investigative Services, filed with the Court on April 1, 2014.

I. FACTS AND ARGUMENT RELEVANT TO REQUEST FOR A FACT INVESTIGATOR.

Undersigned counsel's preliminary review of the trial record, court exhibits, portions of trial counsel's files, interviews with Stanko, and interviews with a majority of the jurors for Stanko's trial have revealed a number of factual issues in need of investigation. For example, during an interview with Juror James Berry, who sat on Stanko's Horry County jury, Mr. Berry revealed that his wife worked for a rape crisis center, where she treated Laura Ling's teenaged daughter when the daughter was brought in after being sexually assaulted by Stanko on the night of Ling's murder (less than twenty-four hours before the murder of Henry Turner). Mr. Berry said that he was surprised that information about his wife's involvement with Ms. Ling's daughter was not elicited during the jury selection process. Mr. Berry thought he would have been found ineligible to serve on the jury if he had been questioned about Ms. Ling's daughter.[3] Thus, undersigned counsel's investigation—now in its preliminary stage—strongly suggests the possibility of juror bias, juror misconduct, and/or the inadequate assistance of counsel.

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[2] Stanko does not request a hearing on this motion and anticipates the Court will decide the motion without a hearing, per the Court's scheduling order. If, however, the Court deems a hearing necessary, Stanko asks this Court to conduct any hearings ancillary to this motion outside the presence of the solicitor, the attorney general, law enforcement personnel, state and county officials, news media, and the general public and to enter an appropriate order under seal. *Ex Parte Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994).

[3] Despite these statements, during voir dire, Mr. Berry stated that his only prior knowledge about Stanko's case was hearing Stanko's name on the news the morning of jury qualification.

A significant portion of the State's penalty phase case-in-chief in Stanko's Horry County trial focused on the murder of Laura Ling and the sexual assault of her teenaged daughter. The State presented the testimony of the EMT who responded to the Ling crime scene and the attending physician and one of the Sexual Assault Nurse Examiners who treated Ms. Ling's daughter. The State also played the sixteen minute 911 call Ms. Ling's daughter made after her assault. This evidence painted a vivid picture of the crimes against Ms. Ling and her daughter and would have jogged the memory of anyone who had previous knowledge of the crimes. The State's heavy reliance on the Ling crimes during Stanko's sentencing creates a significant likelihood that Mr. Berry was biased when determining whether Stanko should live or die.

These allegations that a juror had prior knowledge of the Ling incidents were not addressed on the trial record—no questions were asked during voir dire to specifically elicit whether a potential juror knew Ms. Ling or her daughter, nor did trial counsel learn of Mr. Berry's prior knowledge at the time of trial—and they require follow up investigation to fully develop the potential claims raised by Mr. Berry's revelation. This investigation will involve locating and obtaining a list of medical personnel who attended to Ms. Ling's daughter, interviewing the personnel who attended to Ms. Ling's daughter, interviewing Mr. Berry's wife, and re-interviewing Mr. Berry to ensure undersigned counsel have a full understanding of the nature of Mr. Berry's prior knowledge of the Ling incidents. In addition, the other jurors who served alongside Berry must be interviewed to determine whether Berry discussed his prior knowledge of the Ling crimes and his wife's direct involvement with one of the victims of that crime during the Turner trial and deliberations. A fact investigator is, therefore, necessary to investigate the possible bias of Mr. Berry, a juror who decided whether Stanko should live or die as well as the deficient performance of trial counsel and the resulting prejudice. *See Smith v.*

Phillips, 455 U.S. 209, 217 (1982) ("Due process [requires] a jury capable and willing to decide the case solely on the evidence before it."); *Strickland v. Washington*, 466 U.S. 668 (1984); *see also Burton v. Johnson*, 948 F.2d 1150 (10th Cir. 1991) (granting habeas relief in a case where battering and abuse issues were prominent and a juror did not acknowledge her own sexual abuse during voir dire); *State v. Barrett*, 371 Ark. 91, 263 S.W.3d 542 (2007) (finding trial counsel ineffective for failing to voir dire potential jurors on the elements of the State's case and other key issues in the case).

Review of trial counsel's files and interviews with Stanko further reveal that trial counsel did not fully investigate the incidents presented by the State at trial in which Stanko was portrayed as a con-man with violent tendencies. The prosecution presented multiple witnesses who described instances where Stanko created fraudulent schemes by presenting himself as a lawyer, or a person working for a lawyer, who was able to help with legal or business matters, taking money for his work but not completing the work he promised. Specifically, the State presented Kathleen Crolley, Richard Steve Lee, James Carson Jackson, and Don M. McAlister in the penalty phase of Stanko's case. Each of these witnesses testified about an instance, or instances, where Stanko allegedly told them he could help them with a legal matter, purchasing stocks, or donating to a charity, but then Stanko did not complete the service promised and used the money for personal gain.

Undersigned counsel's initial investigation indicates that some of this testimony presented by the State may have been false or misleading. For instance, counsel's preliminary investigation tends to show Stanko was, in fact, working for lawyers in the Horry County area. During a previous incarceration, Stanko worked on PCR Applications for other inmates. He continued doing this work with attorneys Harry Devoe and Irby Walker upon his release. Stanko

worked on PCR cases for Bret Barron, Laocia Brave, and another person (the son of JoAn Agoney). Had trial counsel investigated these incidents, it is possible the defense could have confronted the State's evidence in aggravation by showing that Stanko was, in fact, working with lawyers and was, in some instances, actually helping people with their legal issues. Each of the individuals involved with Stanko's legal activities must, therefore, be interviewed, along with the family members of the PCR applicants who appear to have met with Stanko and the lawyers regarding Stanko's PCR work. A fact investigator is necessary to investigate these incidents and interview these witnesses to determine whether trial counsel provided ineffective assistance in failing to investigate these incidents. *See Strickland*, 466 U.S. at 690-91.

A fact investigator is also necessary in this case to investigate the suspicious death of Stanko's older brother, William Stanko. Undersigned counsel's preliminary investigation reveals that William died when Stanko was fifteen years old. Stanko and his brother William were close as children and Stanko looked up to William. Prior to his death, Stanko's father kicked William out of the family home due to a conflict over William's drug activities. After William was kicked out, Stanko and his mother visited William without the father's knowledge. William died in 1983 and William's body was discovered in a house fire. Counsel's investigation indicates that William did not have smoke in his lungs and was, therefore, dead prior to the ignition of the fire. The cause of death on William's death certificate is "pending/undetermined." Nevertheless, trial counsel did not obtain the autopsy report for William and did not investigate William's death, despite the fact William's death was a significant event in Stanko's life history. A fact investigator is necessary to investigate the circumstances surrounding the death of William

Stanko to determine whether trial counsel provided ineffective assistance in failing to investigate the circumstances surrounding William's death.[4] *See Strickland*, 466 U.S. at 690-91.

Finally, a fact investigator is necessary in this case to work with Stanko. Stanko is highly intelligent and is very interested in the development of his PCR case. He has been diligently reviewing the transcript of his Horry County case and developing a lengthy list of issues he believes should be addressed in his PCR application as well as potential witnesses who have relevant information to support his claims. Fact investigator Mark Harris, whose affidavit is attached, has extensive experience working with capital clients and issues in capital cases due to his former work as an attorney in the New York Capital Defender Office. Mr. Harris would, therefore, be able to discuss potential fact issues with Stanko and help to determine whether the issues present viable PCR claims. This would reduce the number of trips and hours undersigned counsel will need to expend in meeting with Stanko in preparation of his PCR application. Additionally, Mr. Harris lives and works very close to the prison where Stanko is currently housed, which will decrease the expense of client meetings in instances where Mr. Harris is able to meet with the client to discuss issues related to factual investigation.

Given the above facts, the assistance of a fact investigator is necessary to aid Stanko in investigating the issues already identified, identifying other issues for investigation, and presenting his claims for post-conviction relief. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1(A)(1), commentary ("The assistance of an investigator who has received specialized training is indispensable to discovering and developing facts that must be unearthed . . . in post-conviction proceedings. . . . Counsel lacks the special

[4] Stanko's request for funding for a mitigation investigator indicated a mitigation investigator would investigate the effect of William's death on Stanko. The mitigation investigator will be responsible for discussing William's death and the effect it had on Stanko and his family with Stanko's family members. Separately, a fact investigator is necessary to investigate the suspicious circumstances surrounding the death itself.

expertise required to accomplish the high quality investigation to which a capital defendant is entitled and simply has too many other duties to discharge in preparing the case."); *see also id.* 10.4(C)(2)(a). A fact investigator is necessary to investigate and present Stanko's constitutional claims for post-conviction relief. This Court must, therefore, authorize funds for a fact investigator as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

An affidavit from private investigator Mark B. Harris is attached. The affidavit details Mr. Harris' experience in the field of factual investigation in capital cases. Undersigned counsel have conferred with Mr. Harris regarding Stanko's case and agree with Mr. Harris that the estimated expenditure of 200 hours is reasonably necessary to conduct the required factual investigation in this case. Mr. Harris' rate for his services is $50 per hour, which is reasonable given his experience, the complexities of investigating capital cases, and that $50 per hour is the standard rate authorized by of South Carolina Commission on Indigent Defense for fact investigators.

II. FACTS AND ARGUMENT RELEVANT TO REQUEST FOR A FORENSIC PSYCHOLOGIST.

In every capital case, trial counsel has a duty to conduct a thorough investigation into the client's mental health history and to consider all possible mental health diagnoses. *See* ABA for the Appointment and Performance of Defense Counsel in Death Penalty Cases, 4.1, commentary ("[M]ental health experts are essential to defending capital cases. Neurological and psychiatric impairments . . . are common among persons convicted of violent offenses on death row."). However, undersigned counsel's preliminary investigation reveals that trial counsel's inquiry into Stanko's mental health was inadequate in that counsel settled on a theory that Stanko is a psychopath, to the exclusion of all other possible mental health theories, early on in their

preparation for trial. Undersigned counsel's interviews with members of Stanko's trial team suggest that (1) Stanko's attorney, William Diggs, selected the psychopathy defense prior to the completion of any mental health evaluation of Stanko; (2) Diggs sought out an expert (Dr. Thomas Sachy) who was obsessed with psychopathy and determined that this theory was the best fit for Stanko's defense prior to completing an evaluation of Stanko; and (3) that neither Diggs nor Sachy could be dissuaded from the psychopathy theory even though they were advised that psychopathy was a bad strategy, it was not mitigating, and it had no chance of success.

Trial counsel's focus on this theory resulted in a curtailed mitigation investigation and the failure of trial counsel to direct mental health experts to consider the relationship between Stanko's life history and brain damage and/or mental illness. One of the mental health experts, Dr. Joseph Wu, whom undersigned counsel has interviewed since their appointment, stated that he was not asked to do a full evaluation of Stanko or to offer a diagnosis. He was asked only to review Stanko's brain scans for evidence of a brain damage that would support the finding of psychopathy by Dr. Sachy. From counsel's preliminary investigation, it appears clear that Mr. Diggs and Dr. Sachy sought only evidence that would support a finding of psychopathy rather than seeking diagnoses from the other mental health experts based on full mental health evaluations. As a result, trial counsel mainly presented evidence that made Stanko appear to be "crazy" and more like a psychopath. Trial counsel thus utterly failed to present the jury with an overview of Stanko's life history. Trial counsel did not call any family members and called few friends, teachers, or employers.[5] Even the mitigation witnesses trial counsel did call were not

[5] Trial counsel also failed to even interview the appropriate people in Stanko's life to develop a full understanding of his life history and mental health. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7, commentary ("It is necessary to locate and interview the client's family members (who may suffer from some of the same impairments as the client), and virtually everyone else who knew the client and his family, including neighbors, teachers, clergy, case workers, doctors, correctional, probation, parole officers, and others.").

people with the most relevant information regarding Stanko's life history and mental health. Trial counsel's presentation of Stanko as a psychopath likely had the effect of dehumanizing him in the eyes of the jury and did not comport with reasonable professional standards. *See* ABA Guidelines 10.11(F) (admonishing trial counsel to present evidence at sentencing that can "humanize" the client).

While undersigned counsel cannot point to a specific diagnosis other than psychopathy, counsel's inability to do so is due to the fact that they themselves are not mental health experts and the mental health experts retained at trial were not asked to consider or provide opinions regarding any alternative diagnoses.[6] Due to trial counsel's myopic approach to presenting mental health evidence at Stanko's trial, undersigned counsel must complete the life history and mental health investigation trial counsel failed to conduct. This requires a creation of a full life history and a forensic psychologist to review the life history, evaluate the client for any mental health issues missed by trial counsel, and to present the life history in post-conviction proceedings.[7] Post-conviction relief counsel has a duty to reinvestigate the client as a whole. "Reinvestigating the client means assembling a more-thorough biography of the client than was known at the time of trial, not only to discover mitigation that was not presented previously, but also to identify mental-health claims which potentially reach beyond sentencing issues to fundamental questions of competency and mental-state defenses." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.15.1, commentary.

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[6] Records from Stanko's mental health treatment prior to the instant crimes indicate an alternative diagnosis. The mental health provider in 1994 diagnosed Stanko with Adjustment Disorder with mixed features.

[7] Often in death penalty cases, a social worker is retained to present the client's life history. In this case, however, undersigned counsel request a forensic psychologist who will better be able to evaluate the life history in the context of Stanko's mental health, which has never been done in this case. Forensic psychologist Susan Knight, whose CV is attached, has the ability to review and present Stanko's life history and additionally will be able to present the Court with information regarding Stanko's mental health. Retaining a forensic psychologist in this fashion may eliminate the need for another mental health expert in preparation of Stanko's PCR case.

Finally, trial counsel's presentation of testimony from seven experts in support of the insanity defense, does not insulate trial counsel from being found ineffective by this Court. *See Sears v. Upton*, 561 U.S. 945, ____, 130 S. Ct. 3259, 3266 (2010). If trial counsel's decision to end or prematurely curtail their investigation, including mitigation investigation, was either inconsistent with professional standards or unreasonable because known information should have led counsel to investigate further, a capital defendant may have a valid claim of ineffective assistance of counsel. *See Sears*, 561 U.S. at ____, 130 S. Ct. at 3264; *Wiggins v. Smith*, 539 U.S. 510, 533-34 (2003); *Strickland*, 466 U.S. at 690-91. Due to the limited nature of trial counsel's investigation at trial, funding for a forensic psychologist in Stanko's PCR proceedings is neither duplicative nor without legal purpose.

Given the facts above, the services of a forensic psychologist are reasonably necessary in Stanko's case. "Mental health experts are essential to defending capital cases." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1, commentary. Jurors making a determination of the punishment for a defendant often find "the defendant's psychological and social history and his emotional and mental health [to be] of vital importance." *Id.* Given the fact that trial counsel prematurely abandoned investigation into Stanko's life history and its effect on Stanko's mental health, there is a strong possibility that Stanko has a viable claim for ineffective assistance of counsel under *Sears*, *Porter*, *Wiggins*, *Williams*, and *Strickland*. The assistance of a forensic psychologist is necessary to assist counsel in developing an understanding of Stanko's life history as it correlates to his mental health and presenting related issues to this Court in support of his post-conviction relief claims. This Court must, therefore, authorize funds for a forensic psychologist as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

The current CV of forensic psychologist Dr. Susan Knight is attached. Undersigned counsel have conferred with Dr. Knight about being retained on Stanko's case. She is willing and able to assist counsel in Stanko's case. Counsel have conferred with Dr. Knight and estimate that expenditure of approximately 60 hours is reasonably necessary to conduct the required evaluation in this case. Dr. Knight's rate is $250 per hour for clinical services and $125 per hour for travel outside of the Charleston area. Dr. Knight's rates are reasonable given her experience and the fact that, in counsel's experience, the rates are on the low end of the average rates charged by expert forensic psychologists in South Carolina.

III. SUMMARY OF REQUESTED EXPENDITURES.

For all of the reasons set forth above, Stanko requests the following expenditures:

Fact Investigator

To investigate evidence presented in aggravation at Stanko's trial and possible juror bias and to identify issues related to the investigation, Stanko requests authorization for the initial expenditure of $10,000 to retain the services of a fact investigator to be paid at the rate of $50 per hour.

Forensic Psychologist

To investigate, evaluate, and develop an understanding of the correlation between Stanko's life history and his mental health and to assist post-conviction counsel in presenting mitigating evidence related to Stanko's life history and mental health, Stanko requests authorization for the initial expenditure of $15,000 and reasonable expenses to retain a forensic psychologist to be paid at a rate of $250 per hour for clinical services and $125 per hour for travel outside of the Charleston area.

CONCLUSION

Wherefore, based on the above statements of facts and arguments, undersigned counsel respectfully request the intimal funds requested in this motion for expert services.[8]

May 8th, 2014

Respectfully submitted,

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[8] A proposed order granting this motion is attached for the Court's consideration.

STATE OF SOUTH CAROLINA)
) AFFIDAVIT OF MARK B. HARRIS
COUNTY OF CHARLESTON)

Mark B. Harris, who appeared personally before me, affirms and states the following:

1. I am a Private Investigator duly licensed by the State of South Carolina.

2. I am an Attorney duly admitted in the State of New York since February 1977. I retired in May 2009.

3. While practicing as an attorney, I concentrated on and specialized in Criminal Law and Criminal Trial Practice. I was an Assistant District Attorney for over six years and was a part time Assistant Public Defender, while also maintaining a private practice, for over fifteen years.

4. In 1995, I joined the New York State Capital Defender Office which provided death penalty defense in New York State. For the first four years there, I was the lead trial counsel in the Albany, New York Office. For the last six years, I was the First Deputy Capital Defender and the head of the Albany Office, which had responsibility for providing capital defense in twenty-nine of New York's sixty-two counties. My office was comprised of four or five attorneys, three investigators, a paralegal, and office personnel.

5. As a defense attorney, I was involved in over twenty homicide cases, many of which went to trial. As a Capital Defender, I was involved in over thirty capital cases. Also, as a Capital Defender I attended, and occasionally lectured at, numerous trainings, death penalty conferences, and the Santa Clara Death Penalty College. There were lengthy discussions of investigation at all of these. As a Prosecutor, I was involved in approximately a dozen homicide cases often starting with going to the body at the scene.

6. In virtually all of the above homicide cases, I was directly involved with the investigation, doing it myself or working with and/or directing an investigator or investigators. I am a firm believer that investigation is a cornerstone to preparation and as such to seeing that justice is done.

7. Over my years as an attorney, in addition to my own cases, I was often consulted by other attorneys who had homicide cases, and I gave advice as to tactics, theories, defenses, and areas to be investigated.

8. While working in the Capital Defender Office, we had a particular mantra which was that investigation was not complete until the case was over. In the cases where there was not a plea and the trial resulted in a guilty verdict, the investigation continued until all appeals were extinguished.

9. In South Carolina, I have worked as an investigator on two PCR cases. I worked as a mitigation investigator on one case, and as a result of extensive fact and mitigation

investigation, there was information uncovered that had been missed by trial attorneys and was crucial to the issue of whether a death verdict was proper or legal. I worked as a fact investigator on the other case, which was before this Court—*State v. Winkler*.

10. I have discussed the case of *Stanko v. State* with Mr. Stanko's appointed PCR counsel. Counsel informed me that they reviewed the trial record for both of Mr. Stanko's capital trials, conducted a preliminary review of trial counsel's files, and began interviewing witnesses and jurors. As a result, counsel have already identified a number of issues for investigation as being of importance for post-conviction review of Mr. Stanko's case in Horry County.

11. It is my opinion that there is substantial fact investigation that is still required, much of which was not done at all by the trial attorneys. At this point, it appears that, at a minimum, there is a need for at least 200 hours of file review, conferencing with attorneys and the mitigation investigator, interviews, and field work.

12. My regular hourly rate is fifty dollars per hour, a rate I believe to be reasonable in light of the complexity of the case and in light of my experience in capital litigation.

I affirm, under the penalty of perjury, that the foregoing is true and correct to the best of my knowledge. Further affiant sayeth naught.

MARK B. HARRIS

Sworn to and subscribed before me
This 26th day of March, 2014

Notary Public for the State of South Carolina
My commission expires: 2/21/2024

SUSAN C. KNIGHT, PH.D, ABPP

Telephone: (843) 637-5729; **Facsimile:** (843) 410-2802
Electronic Mail: knight@apsforensic.com
Mailing Address: 1739 Maybank Hwy., Ste. T-606, Charleston, SC 29412

EDUCATIONAL HISTORY:

September 2004 - August 2005	**Postdoctoral Fellowship in Forensic Psychology** University of Southern California Keck School of Medicine Dept. of Psychiatry & Behavioral Sciences USC Institute of Psychiatry & Law P.O. Box 86125 Los Angeles, CA (ACGME Accredited)
September 2003 - August 2004	**Pre-doctoral Internship in Forensic Psychology** U.S. Department of Justice (USDOJ)/Bureau of Prisons Federal Correctional Complex and Medical Center Butner, NC (APA Accredited Internship)
August 1999 - August 2004	**Doctorate of Philosophy, Clinical Psychology** University of Louisville, Louisville, KY Department of Psychological and Brain Sciences (APA Accredited Program)
August 1999 - May 2002	**Master of Arts, Clinical Psychology** University of Louisville, Louisville, KY Department of Psychological and Brain Sciences [Degree embedded within the Clinical Psychology Doctoral program, APA Accredited]
August 1994 - May 1998	**Bachelors of Arts, Psychology, *Magna Cum Laude*** Trinity University, San Antonio, TX

PROFESSIONAL LICENSURE:

- Psychologist, State of North Carolina, License #3407 [June 2007]
- Psychologist, State of South Carolina, License #1053 [May 2007]

BOARD CERTIFICATION:

- ABPP- Board certification in Forensic Psychology awarded by the American Board of Professional Psychology (ABPP) [April 2009]

PROFESSIONAL EXPERIENCE

Clinical and Forensic Psychologist **August 2013 - Present**
Applied Psychological Services, LLC
1739 Maybank Hwy., Ste. T-606
Charleston, SC 29412

Conduct comprehensive forensic psychological evaluations on a wide variety of criminal and civil issues, to include, but not limited to, competency to stand trial, criminal responsibility, violence risk assessments, sexual behavior assessments, sentencing/mitigation, and fitness for duty evaluations. Provide clinical therapeutic services to an adult outpatient population.

Clinical Assistant Professor of Forensic Psychiatry **August 2013 - Present**
Community and Public Safety Psychiatry Division
Department of Psychiatry and Behavioral Sciences
Medical University of South Carolina
29-C Leinbach Drive
Charleston, SC 29407

Responsibilities: Conduct comprehensive forensic psychological evaluations on a wide variety of criminal and civil issues, and provide consultation to the county, state and federal court systems as necessary. Types of evaluations include competency to stand trial, criminal responsibility, violence risk assessments, sexual behavior assessments, and fitness for duty assessments for health care, public safety and transportation personnel. Provide instruction, teaching and supervision to forensic post-doctoral fellows, medical residents, interns and students on forensic and general clinical psychological issues.

Assistant Professor of Forensic Psychiatry **January 2008-August 2013**
Associate Director of the Forensic Psychiatry Fellowship **July 2008-August 2013**
Director of the Progressive Professionals Program (PPP) **November 2010-August 2013**
Department of Psychiatry and Behavioral Sciences
Medical University of South Carolina
29-C Leinbach Drive
Charleston, SC 29407

Responsibilities: Conduct comprehensive psychological forensic evaluations on a wide variety of criminal and civil issues, and provide consultation to the county, state and federal court systems as necessary. Types of evaluations include competency to stand trial, criminal responsibility, violence risk assessments, sexual behavior assessments, and fitness for duty assessments for health care, public safety and transportation personnel. Provide clinical therapeutic services (therapy and psychological assessment) to a general outpatient population as needed. Provide instruction, teaching and supervision to forensic post-doctoral fellows, medical residents, interns and students on forensic and general clinical psychological issues.

Clinical Psychologist **April 2007- November 2007**
Grew, Morter and Hartye, P.A.
3141 John Humphries Wynd, Ste. 275
Raleigh, NC 27612

Responsibilities: Provided mental health services in a private practice setting to an outpatient population. Clinical duties included providing short and long term individual therapy, and conducting psychological assessments addressing a wide range of psychological issues. Forensic duties included conducting psycho-legal evaluations and providing consultation as needed for forensic issues.

Clinical Psychologist **September 2005-December 2006**
Los Angeles County Department of Mental Health
Century Regional Detention Facility- Los Angeles County Jail
Women's Forensic Outpatient Program (WFOP)
11705 S. Alameda St.
Lynwood, CA 90262

Responsibilities: Provided mental health services to a correctional population, including diagnostic intake interviews, brief therapy, crisis intervention services and psychological assessments. Forensic duties included managing patients in the Misdemeanant Incompetent to Stand Trial (MIST) program, including competency restoration and consultation with the mental health court system.

Forensic Psychologist (Contract Basis) **September 2006- December 2006**
Metropolitan Detention Center- Los Angeles
Federal Bureau of Prisons
535 N. Alameda St.
Los Angeles, CA 90012

Responsibilities: Conducted pre-trial and post-trial psychological forensic evaluations for the Federal Bureau of Prisons on a contract basis. Evaluations covered a variety of psycho-legal issues, including competency to stand trial, criminal responsibility, dangerousness evaluations and sentencing issues. Duties included interviews, psychological assessment, report writing and providing consultation and/or testimony to the Federal Court system as needed.

Forensic Psychologist **September 2006- December 2006**
USC-Keck School of Medicine
Institute of Psychiatry, Law and Behavioral Science
Los Angeles, CA 90086-0125

Responsibilities: Conducted forensic evaluations for the juvenile court system in Los Angeles addressing a variety of psycho-legal issues. Duties included evaluations, report-writing and providing consultation to the Juvenile Court System.

Postdoctoral Fellow in Forensic Psychology **September 2004 –August 2005**
University of Southern California/Keck School of Medicine
Institute of Psychiatry, Law & Behavioral Science
P.O. Box 86125
Los Angeles, CA 90086-0125

Responsibilities: Conducted psychological and legal evaluations for attorneys and courts related to criminal delinquency and dependency issues; evaluation, psychological assessment, and treatment of mentally disordered offenders, including outpatient sex offender treatment. Received specialized training on how to conduct psychological autopsies for the Los Angeles County Coroner's Office.

Pre-doctoral Clinical Psychology Intern **August 2003 - September 2004**
Federal Correctional Complex- Butner
Old N.C. Hwy 75
Butner, NC 27509

Responsibilities: Worked in the forensic evaluation program at the Federal Medical Center and conducted federal pre-trial forensic evaluations which involved comprehensive psychological evaluation and report writing. Provided expert testimony to federal court. Worked in the Sex Offender Treatment Program (SOTP), an intensive, residential therapeutic program for male sexual offenders. Employed specialized assessment, didactic, and cognitive-behavioral techniques to evaluate, treat, and manage sexual offenders. Also conducted individual and group therapy, and assisted in managing the special needs of mental health inmates.

Graduate Student Therapist **May 2002- May 2003**
Outpatient Psychiatry/Ambulatory Care Building
550 S. Jackson St.
Louisville, KY 40202

Responsibilities: Conducted individual and group psychotherapy as well as psychological testing with a variety of patients presenting at a local hospital for psychological treatment. Conducted initial intake interviews with potential patients presenting for medication and therapy; provided diagnosis, case formulation and treatment recommendations.

Clinic Assistant **August 2000- June 2002**
University of Louisville/Psychological Services Center
Davidson Hall, Suite 210, Louisville, KY 40292

Responsibilities: Conducted initial assessment intake interviews with potential clients for the psychology clinic. Assisted in diagnosis, treatment recommendations, and disposition of clients to specialty clinic teams. Maintained client database and records for clinic operation. Coordinated clinic in-services (professional presentations) for students and psychological community at large. Maintained subject records and billing for ongoing research project.

Research Assistant **August 1999 - July 2000**
Central State Hospital/Dept. of Psychology
10510 La Grange Rd.
La Grange, KY 40223

Responsibilities: Collected and analyzed data related to program evaluation from all disciplines (nursing, medical staff, psychologists, social workers and pastoral staff). Created and maintained comprehensive research database tracking all patients with a diagnosis of Mental Retardation and all patients with guardians

Caseworker / Case Manager **May 1998 - December 1998**
Crosspoint, Inc.
605 Augusta St.
San Antonio, TX, 78215

Responsibilities: This facility provided a structured program of re-socialization for female adults primarily referred from federal correctional and health care facilities. Responsibilities included administration of direct services provided to clients on an individual and/or group basis. Consulted with, and managed interface to local support agencies when and where necessary on behalf of the client.

CLINICAL PRACTICA/PSYCHOTHERAPY EXPERIENCE

Graduate Student Therapist **August 1999 - May 2003**
University of Louisville/Psychological Services Center
Louisville, KY 40292

Responsibilities: Conducted individual therapy sessions and a wide variety of full psychological assessments with outpatient clients (adults and children).

Doctoral Practicum Student (Assessment & Therapy) **August 2000 - September 2002**
Kentucky State Reformatory
La Grange, KY 40032

Responsibilities: Conducted psychological testing and individual therapy for adult male inmates housed in the Correctional Psychiatric Treatment Unit at a medium security state prison. Compiled and analyzed sex offender data in the Sex Offender Risk Assessment Unit (SORA) at Kentucky State Reformatory.

ACADEMIC APPOINTMENTS:

- **Clinical Instructor** — **August 2004 - September 2005**
  University of Southern California
  Keck School of Medicine
  Department of Psychiatry and Behavioral Sciences
  Los Angeles, CA 90033

- **Adjunct Faculty** — **August 2006 – December 2006**
  University of Southern California
  Department of Psychology
  Los Angeles, CA 90089

- **Assistant Professor** — **January 2008 – August 2013**
  Medical University of South Carolina
  Department of Psychiatry, Charleston, SC 29425

- **Clinical Assistant Professor** — **August 2013- Present**
  Medical University of South Carolina
  Department of Psychiatry, Charleston, SC 29425

- **Adjunct Professor** — **May 2011- Present**
  Charleston School of Law
  Charleston, South Carolina

PROFESSIONAL AFFILIATIONS

- American Psychological Association (APA) [1999 to Present]
- American Psychology-Law Society (APLS) [2003 to Present)
- South Carolina Psychological Association (SCPA) [2008 to Present]
- American Board of Professional Psychology (ABPP) [2009 to Present]
- Association for the Treatment of Sexual Abusers (ATSA) [2012 to Present]
- American Association for Sexuality Educators Counselors and Therapists (AASECT) [2012 to Present]

POSTERS/PRESENTATIONS

1. Knight, S.C. & Einstein, G. (1996). *Aging and Retrieval Inhibition in Prospective Memory.* Paper presented at the National Convention of Undergraduate Research (NCUR) in the Spring of 1997 in Austin, TX.

2. Weaver, C.M., Bock, P., Knight, S. & Gretarsdottir, E. (1999, November). *Demographic Study of 1998 Jefferson County Kentucky Guardianship Population.* Poster presented at the annual meeting of the Kentucky Psychological Association, Louisville, KY. Poster was awarded second prize for graduate research.

3. Knight, S.C., Scanish, J., Fintel, T., & Meyer, R.G. (2002, August). *Characteristic of the Female Sex Offender.* Poster presented at the 2002 APA conference in Chicago, Illinois in the APLS (Division 41) of research.

4. Knight, S.C. (2006). *The Sex Offender's Brain: A review of the etiological evidence towards a neurobiochemical basis.* Lecture presented to faculty, staff and students at the University of Southern California, Department of Psychology, as part of the Continuing Education (CE) colloquia.

5. Mulbry, L. W. & Knight, S.C. (March 2008). *Competency to Stand Trial, Criminal Responsibility and Capacity to Conform.* Talk given to the Charleston County Solicitor's Office.

6. Knight, S.C. (September 2008). *Psychological Autopsy: Determining the Manner of Death Through Investigative Psychological Analysis.* Lecture presented to the Medical University of South Carolina, Department of Psychiatry, Division of Forensic Psychiatry, Day of Discovery conference.

7. Stroud, Z., Knight, S.C., Halavonich, R.H., & Mulbry, L.W. (October 2008). *Mass Shooters: An Antihero of our Time.* Presentation presented at the national American Academy of Psychiatry and Law (AAPL) conference in Seattle, WA.

8. Knight, S.C. (July 2009). *The MMPI-2: Fundamentals of Interpretation.* Lecture to the Medical University of South Carolina Psychology Internship Program

9. Knight, S.C. (November 2009). *The Disruptive Professional.* Presentation given to the Senior Medical Leadership Council of the South Carolina Hospital Association. Columbia, South Carolina.

10. Knight, S.C. (November 2009). *South Carolina Mental Health Law: How to Proceed with a Mentally Disordered Defendant.* Presentation to the South Carolina Bar Association Distance Learning Division. Columbia, South Carolina.

11. Knight, S.C. (November 2009). *Psychiatric Malpractice: A review of select South Carolina cases.* [Invited Speaker]. Presentation given at the Medical University of South Carolina, Forensic Interest Group Meeting. Charleston, South Carolina.

12. Knight, S.C. (January 2010). *South Carolina Mental Health Law: How to Proceed with a Mentally Disordered Defendant.* Workshop on competency to stand trial and criminal responsibility presented to attorney participants at the Medical University of South Carolina. Charleston, South Carolina.

13. Knight, S.C. (April 2010). *The Mentally Ill Offender: An Epidemic in Courts and Corrections.* [Invited Speaker]. Presentation at the 2010 Mental Health Professionals Collaboration held at the Medical University of South Carolina for mental health professionals statewide. Charleston, South Carolina.

14. Knight, S.C. & Mulbry, L.W. (October 21, 2010). *Automatism: A 15-year review of criminal appellate case law.* Scientific paper presentation at the national American Academy of Psychiatry and Law (AAPL) conference in Tucson, AZ.

15. Knight, S.C. (October 29, 2010). *South Carolina Mental Health Law: How to Proceed with a Mentally Disordered Defendant.* Workshop on competency to stand trial and criminal responsibility presented to the Berkeley County Public Defender's Office.

16. Knight, S.C. & Mulbry, L.W. (January 30, 2011). *School Shooters: A Unique Class of Violent Offenders.* [Invited Speaker]. Presentation to the South Carolina Psychiatric Association (SCPA) statewide conference in Charleston, SC.

17. Knight, S.C. (June 2011). *Legal Insanity and Competence.* [Invited Speaker]. Update in Psychiatry-Mental Illness, Victimization and Criminal Justice. A Forum for Clinicians, Policymakers, Judges, Attorneys and Law Enforcement. Charleston, South Carolina.

18. Knight, S.C. (June 2011). *Relationship Between Mental Illness and Criminal Behavior. Update in Psychiatry-Mental Illness, Victimization and Criminal Justice.* [Invited Speaker]. A Forum for Clinicians, Policymakers, Judges, Attorneys and Law Enforcement. Charleston, South Carolina.

19. Beck, B., Knight, S.C., & Mulbry, L.W. (October 2012). *Robotripping: Dextromethorphan's Link to Violent Crime, Rising Use and Emergent Legislation.* Poster presented at the national meeting of the American Academy of Psychiatry and Law (AAPL), Montreal, Canada.

20. Knight, S.C. (December 2012). *Sexual Predators: Pathology and the Law.* [Invited Speaker]. Judges and Attorneys Substance Abuse and Ethics Seminar, Medical University of South Carolina, Charleston, South Carolina.

21. Knight, S.C. (December 2012). *Legal Competence.* [Invited Speaker]. Judges and Attorneys Substance Abuse and Ethics Seminar, Medical University of South Carolina, Charleston, South Carolina.

22. Knight, S.C. (April 2013). *Legal Competence: Civil Competencies.* [Invited Speaker]. South Carolina Association of Probate Judge's Conference. Columbia, South Carolina.

23. Beck, B., Knight, S. C. & Mulbry, L.W. *Revisions in Gun and Mental Health Laws in the Wake of Newtown.* Poster accepted for presentation at the October 2013 national meeting of the American Academy of Psychiatry and Law (AAPL), San Diego, California.

24. Knight, S.C. (September 2013). *Workplace Violence: Assessment, Intervention and Prevention.* [Invited Speaker]. A Psychiatric Update: Annual conference held by the South Carolina Department of Mental Health.

25. Knight, S.C., Mulbry, L.W., Mullis, D. & Fields, C. (October 2013). *Guns and Psychiatry: Disarming the Mentally Ill.* Grand Rounds Presentation, Medical University of South Carolina, Department of Psychiatry and Behavioral Science.

26. Knight, S.C. (December 2013). *Ethical Considerations in Forensic Evaluations.* [Invited Speaker]. Judges and Attorneys Substance Abuse and Ethics Seminar, Medical University of South Carolina, Charleston, South Carolina.

PUBLICATIONS

1. Oliver, J. M., Knight, S.C., Weaver, C.M., Boyd, A.R. & Meyer, R.G. (2000). Attitudes of board certified forensic psychologists toward critical issues in forensic psychology and the legal system. *Bulletin of the American Academy of Forensic Psychology, 21 (1)*, 8-10.

2. Oliver, S.C., Knight, S.C., Weaver, C.M. & Meyer, R.G. (2001). Attitudes of forensic practitioners about competency to stand trial evaluations: Theoretical and practical considerations. *Bulletin of the American Academy of Forensic Psychology, 22 (1),* 20-22.

3. Knight, S.C. & Meyer, R.G. (2003). Gender Identity Disorder: The Case of Bruce/Brenda. In R.G. Meyer's, *Case Studies in Abnormal Behavior (6^{th} ed.),* (pp. 134-140). Boston: Allyn & Bacon.

4. Knight, S.C. & Meyer, R.G. (2007). Forensic Hypnosis. In A. M. Goldstein's (Ed.) *Forensic Psychology: Emerging Topics and Expanding Roles*, NY: Wiley.

5. Gomez, A. & Knight, S.C. (2013). Disclosure of Mental Health Records in Court-Mandated Outpatient Treatment Proceeding and the Health Insurance Portability and Accountability Act (HIPPA). *Journal of the American Academy of Psychiatry and Law.* Vol. 41: 460-641.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CASE NUMBER 2014-CP-26-035
Stephen C. Stanko, #6022,	)	
	)	
Applicant,	)	***Ex Parte* Order to be Filed Under Seal**
	)	
vs.	)	**Order Partially Granting Applicant's Motion to Reconsider and Supplemental Order Authorizing Funding for Investigative Services**
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Applicant, Stephen Stanko ("Stanko"), is an indigent, death-sentenced inmate. He is seeking post-conviction relief ("PCR") from his convictions and sentence. This matter comes before this Court in an *ex parte* proceeding authorized pursuant to S.C. Code Ann. § 17-3-50(B) and *Ex Parte Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994), due to the confidential nature of the matters herein.

Stanko moves this Court to reconsider its April 29, 2014 Order Authorizing Funding for Expert and Investigative Services ("Order"). Specifically, Stanko asks the Court to reconsider its denial of funds for factual investigative services in the amount of $10,000 and denial of funds for a forensic psychologist in the amount of $15,000.[1] Upon consideration of the specific facts discussed below that demonstrate the necessity of retaining a factual investigator in this case, the Court finds that some of the funds requested are necessary to provide Stanko with constitutionally and statutorily adequate resources to pursue this PCR action. *See, e.g.*, U.S. Const. amends V, VI, VII, XIV; S.C. Const. arts. I, III, XIV; S.C. Code § 17-27-160; *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992); S.C. App. Ct. R. 602. However, the total amount of

[1] The Court's Order explicitly invites Stanko to move for reconsideration and to provide additional information in support of these requests. Order, Apr. 29, 2014, at 7 n.2, 10 n.4.

1/MHC

funds requested for a factual investigator is excessive and unreasonable. Also, this court finds that funding for a forensic psychologist is not necessary to provide Stanko adequate representation in this PCR case.

Stanko did not request a hearing on this motion and the Court decides this motion without a hearing per the Court's scheduling order dated April 29, 2014.

For a discussion of the procedural background and legal basis for authorizing expenditure of the requested funds granted herein, see the Court's Order Authorizing Expert and Investigative Services, filed on April 29, 2014.

I. FUNDING REQUEST FOR A FACT INVESTIGATOR.

Stanko's PCR counsel submit that their preliminary review of the criminal trial record, court exhibits, portions of the criminal trial counsel's files, interviews with Stanko, and interviews with a majority of the jurors in Stanko's criminal trial have revealed a number of factual issues in need of investigation. For example, during an interview with James Berry, a juror in Stanko's criminal trial, Mr. Berry revealed that his wife worked for a rape crisis center and that she treated Laura Ling's teenage daughter who was a victim in Stanko's prior criminal trial in Georgetown County in which Stanko was convicted of murdering Laura Ling and received a death sentence. Mr. Berry revealed that his wife treated the daughter when she was brought into the rape crises center after being sexually assaulted by Stanko on the night of Ling's murder (less than twenty-four hours before Stanko's murder of Henry Turner, the victim in the criminal trial giving rise to this PCR action). Mr. Berry said that he was surprised that information about his wife's involvement with Ms. Ling's daughter was not elicited during the jury selection process. Mr. Berry thought he would have been found ineligible to serve on the

jury if he had been questioned about Ms. Ling's daughter.[2] Preliminary investigation by Stanko's PCR counsel strongly suggests the possibility of juror bias, juror misconduct, and/or the inadequate assistance of counsel in jury selection as it pertains to the penalty phase.[3]

Counsel further indicates a significant portion of the State's penalty phase case-in-chief in Stanko's Horry County trial focused on the murder of Laura Ling and the sexual assault of her teenage daughter. The State presented the testimony of the EMT who responded to the Ling crime scene and the attending physician and one of the Sexual Assault Nurse Examiners who treated Ms. Ling's daughter. The State also played the sixteen minute 911 call Ms. Ling's daughter made after her assault. Counsel argues this evidence painted a vivid picture of the crimes against Ms. Ling and her daughter and would have jogged the memory of anyone who had previous knowledge of the crimes. The State's heavy reliance on the Ling crimes during Stanko's sentencing creates a significant likelihood that Mr. Berry was biased when determining Stanko's sentence.

The allegations that a juror had prior knowledge of the Ling incidents were not addressed on the trial record. No questions were asked during voir dire to specifically elicit whether a potential juror knew Ms. Ling or her daughter, nor did Stanko's criminal trial counsel learn of Mr. Berry's prior knowledge at the time of Stanko's criminal trial. Investigation into this issue is needed to fully develop the potential claims raised by Mr. Berry's revelation. Counsel submit that this investigation will involve locating and obtaining a list of medical personnel who attended to Ms. Ling's daughter, interviewing the personnel who attended to Ms. Ling's daughter, interviewing Mr. Berry's wife, and re-interviewing Mr. Berry to ensure counsel have a

[2] Despite these statements, during voir dire, Mr. Berry stated that his only prior knowledge about Stanko's case was hearing Stanko's name on the news the morning of jury qualification.

[3] This court understands that Stanko's conviction for the Ling murder was presented only in the sentencing phase of criminal trial giving rise to this PCR action and nothing regarding Stanko's conviction and sentence in the Georgetown County criminal trial of Ling's murder was presented during the guilt phase.

full understanding of the nature of Mr. Berry's prior knowledge of the Ling incidents. In addition, the other jurors who served alongside Mr. Berry must be interviewed to determine whether Mr. Berry discussed his prior knowledge of the Ling crimes and his wife's direct involvement with one of the victims of that crime during the trial and deliberations giving rise to this PCR action. Counsel asserts that a fact investigator is, therefore, necessary to investigate the possible bias of Mr. Berry. *See Smith v. Phillips*, 455 U.S. 209, 217 (1982) ("Due process [requires] a jury capable and willing to decide the case solely on the evidence before it."); *Strickland v. Washington*, 466 U.S. 668 (1984); *see also Burton v. Johnson*, 948 F.2d 1150 (10th Cir. 1991) (granting habeas relief in a case where battering and abuse issues were prominent and a juror did not acknowledge her own sexual abuse during voir dire); *State v. Barrett*, 371 Ark. 91, 263 S.W.3d 542 (2007) (finding trial counsel ineffective for failing to voir dire potential jurors on the elements of the State's case and other key issues in the case).

Counsel next assert that their review of trial counsel's files and interviews with Stanko further reveal that trial counsel did not fully investigate the incidents presented by the State at trial in which Stanko was portrayed as a con-man with violent tendencies. The prosecution presented multiple witnesses who described instances where Stanko created fraudulent schemes by presenting himself as a lawyer, or a person working for a lawyer, who was able to help with legal or business matters, taking money for his work but not completing the work he promised. Specifically, the State presented Kathleen Crolley, Richard Steve Lee, James Carson Jackson, and Don M. McAlister in the penalty phase of Stanko's case. Each of these witnesses testified about an instance, or instances, where Stanko allegedly told them he could help them with a legal matter, purchasing stocks, or donating to a charity, but then Stanko did not complete the service promised and used the money for personal gain.

Counsel's initial investigation indicates that some of this testimony presented by the State may have been false or misleading. For instance, counsel's preliminary investigation tends to show Stanko was, in fact, working for lawyers in the Horry County area. During a previous incarceration, Stanko worked on PCR Applications for other inmates. He continued doing this work with attorneys Harry Devoe and Irby Walker upon his release. Stanko worked on PCR cases for Bret Barron, Laocia Brave, and another person (the son of JoAn Agoney). Counsel submit that had trial counsel investigated these incidents, it is possible the defense could have confronted the State's evidence in aggravation by showing that Stanko was, in fact, working with lawyers and was, in some instances, actually helping people with their legal issues. Counsel assert each of the individuals involved with Stanko's legal activities must, therefore, be interviewed, along with the family members of the PCR applicants who appear to have met with Stanko and the lawyers regarding Stanko's PCR work. Counsel contend fact investigator is necessary to investigate these incidents and interview these witnesses to determine whether trial counsel provided ineffective assistance in failing to investigate these incidents. *See Strickland*, 466 U.S. at 690-91.

Counsel aver that a fact investigator is also necessary in this case to investigate the suspicious death of Stanko's older brother. Counsel's preliminary investigation reveals that Stanko's older brother died when Stanko was fifteen years old. However, this Court finds that an investigation of the suspicious death of Stanko's older brother when Stanko was fifteen years old is not necessary in this PCR case seeking relief from Stanko's conviction and sentence in his criminal trial.

Finally, counsel aver that a fact investigator is necessary in this case to work with Stanko. However, this Court finds that this request is duplicative to counsels' services in this PCR case and, therefore, is unneccssary.

Given the above facts, the Court finds the assistance of a fact investigator is necessary to aid Stanko in investigating the issues of juror bias and alleged false testimony presented by the State at the criminal trial. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1(A)(1), commentary ("The assistance of an investigator who has received specialized training is indispensable to discovering and developing facts that must be unearthed . . . in post-conviction proceedings. . . . Counsel lacks the special expertise required to accomplish the high quality investigation to which a capital defendant is entitled and simply has too many other duties to discharge in preparing the case."); *see also id.* 10.4(C)(2)(a). A fact investigator is necessary to investigate and present Stanko's constitutional claims for post-conviction relief. This Court must, therefore, authorize some of the requested funds for a fact investigator as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

In order to thoroughly investigate the facts in support of Mr. Stanko's claims for post-conviction relief, counsel request authorization for the expenditure of $10,000 to retain the services of private investigator Mark B. Harris. This Court finds this request to be excessive.

Counsel submit they have conferred with Mr. Harris regarding Mr. Stanko's case and that an estimated expenditure of 200 hours is necessary to conduct all of the investigation desired by Stanko in this case. However, as stated above, this Court finds that the majority of the investigation sought by Stanko is not necessary.

Mr. Harris' rate for his services is $50 per hour, which this Court finds is reasonable given his experience and the complexities of investigating capital cases. This court also finds that 80 hours of investigative services is required to complete the necessary fact investigation in this case and, therefore, authorizes up to $4,000.00 in funding for a fact investigator.

II. FUNDING REQUEST FOR A FORENSIC PSYCHOLOGIST.

Counsel also seeks reconsideration of the court's prior denial of Stanko's request for funding for a forensic psychologist.

In every capital case, trial counsel has a duty to conduct a thorough investigation into the client's mental health history and to consider all possible mental health diagnoses. *See* ABA for the Appointment and Performance of Defense Counsel in Death Penalty Cases, 4.1, commentary ("[M]ental health experts are essential to defending capital cases. Neurological and psychiatric impairments . . . are common among persons convicted of violent offenses on death row."). However, nothing submitted in support of counsel's request for funding a forensic psychologist reveals that trial counsel's inquiry into Stanko's mental health was inadequate. Though Stanko' trial counsel settled on a theory that Stanko is a psychopath, to the exclusion of all other possible mental health theories, nothing before the court indicates that trial counsel's theory was incorrect or that a forensic psychologist will produce any evidence in support of Stanko's claim for post-conviction relief. Stanko's PCR attorneys argue that the services of a forensic psychologist is necessary to determine whether Stanko has any mental health issues that could have been presented at his criminal trial as mitigating evidence. In other words, the necessity of a forensic psychologist in this PCR action cannot be determined until the forensic psychologist completes a mental health examination of Stanko.

This court finds that the argument presented by Stanko's PCR counsel do not satisfy the "reasonably necessary" requirements of S.C. Code Ann. § 17-3-50(B). Pursuant to S.C. Code Ann. § 17-3-50(B), the court may only authorize funding for investigative, expert or other services after the court finds that such services are reasonably necessary for the applicant's representation. The statute does not authorize funding for services which cannot be deemed reasonably necessary to the applicant's representation until after the services are performed and a beneficial result obtained. In other words, the court cannot authorize funding for expert, investigative or other services simply to determine if the criminal trial counsel "missed something" without anything to support a finding that the "something" existed in this first place. Therefore, this court denies reconsideration of the prior denial of Stanko's request for funding for a forensic psychologist.

NOW, THEREFORE, it is hereby

ORDERED, that the Applicant's motion to reconsider the court's prior denial of funding for a fact investigator is GRANTED to the extent that funding up to $4,000.00 is authorized for the services of a fact investigator; it is further

ORDERED that the South Carolina Commission on Indigent Defense shall disburse the funds for a fact investigator as costs and services are incurred under the terms set forth herein; it is further

ORDERED, that the Applicant's motion to reconsider the court's prior denial of funding for a forensic psychologist is DENIED; it is further

ORDERED that this Order shall be sealed by the Clerk of Court and/or the Office of Indigent Defense on behalf of the Clerk of Court since this order deals with confidential defense matters. S.C. Code § 16-3-26(C); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982).

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

AND IT IS SO ORDERED.

Benjamin H. Culbertson
Presiding Circuit Judge

June 3, 2014
Conway, SC

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
Stephen C. Stanko, #6022,	)	
	)	Case No. 2014-CP-26-035
Applicant,	)	
	)	
vs.	)	**EX PARTE**
	)	**TO BE FILED UNDER SEAL**
State of South Carolina,	)	**APPLICANT'S SECOND MOTION TO**
	)	**AUTHORIZE FUNDING FOR EXPERT**
Respondent.	)	**SERVICES**
	)	

Applicant Stephen C. Stanko is an indigent, death-sentenced inmate. He is seeking post-conviction relief from his convictions and sentence. Mr. Stanko respectfully moves this Court to authorize the following amounts: (1) $13,000 for the services of a licensed social worker and (2) $9,000 for the services of a media expert.

These funds are necessary to provide Stanko with constitutionally and statutorily adequate resources to pursue his post-conviction relief action. *See, e.g.*, U.S. Const. amends V, VI, VII, XIV; S.C. Const. arts. I, III, XIV; S.C. Code § 17-27-160; *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992); S.C. App. Ct. R. 602. Applicant reserves the right to move for additional funds as they become necessary.

This motion is *ex parte* as authorized by state law. S.C. Code Ann. §§ 16-3-26(C), 17-27-160(B). Stanko requests that this Court order this motion sealed and not filed in the public record of this proceeding or disclosed in any manner to the State or its attorneys.[1]

[1] Applicant does not request a hearing on this motion and anticipates the Court will decide the motion without a hearing, per the Court's scheduling order. If, however, the Court deems a hearing necessary, Applicant asks this Court to conduct any hearings ancillary to this motion outside the presence of the solicitor, the attorney general, law enforcement personnel, state and county officials, news media, and the general public and to enter an appropriate order under seal. *Ex Parte Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994).

The legal and factual bases for this motion are set forth below.

I. LEGAL BASIS FOR AUTHORIZING THE EXPENDITURE OF FUNDS IN EXCESS OF THE STATUTORY LIMITS.

The South Carolina legislature has provided that indigents seeking post-conviction relief from capital judgments are entitled to expert assistance upon an *ex parte* finding by the court that such services are "reasonably necessary for the representation of the defendant." *See* S.C. Code § 17-27-160(B) (incorporating the funding provisions of S.C. Code § 16-3-26 which provides that the court shall order the payment of fees and expenses "[u]pon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant"); *see also* Rule 602(g)(6), SCACR ("In post-conviction relief matters, expenses related to representation and fees of appointed counsel may be paid where permitted and as prescribed in these Rules and the Defense of Indigents Act.").

The right to file an application for post-conviction relief, and the right to the assistance of counsel when doing so, are hollow in the absence of the concomitant right of an indigent applicant to receive funding for expert and investigative services where appropriate. *Williams v. Martin*, 618 F.2d 1021, 1025 (4th Cir. 1980) (explaining that "[t]he quality of representation at trial may be excellent and yet valueless to the defendant if his defense requires . . . the services of a[n] . . . expert and no such services are provided") (citing ABA Standards, Providing Defense Services, commentary, 22-23 (App. Draft 1968)). The state is required to "provide the 'basic tools' for an adequate defense to an indigent defendant." *Bailey*, 309 S.C. at 459, 424 S.E.2d at 506 (citing *Ake v. Oklahoma*, 470 U.S. 68 (1985)). Namely, it is the state's duty to "ensure that the defendant has . . . [funding for] the services of experts necessary to a meaningful defense." *Id.* This duty extends to the post-conviction context as well. Indeed, the United States Supreme Court specifically recognized that "the right to counsel [in federal habeas corpus proceedings] necessarily includes a

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right for that counsel meaningfully to research and present a defendant's habeas claims." *McFarland v. Scott*, 512 U.S. 849, 858 (1994).

The ability to retain the services of experts and investigative assistance in various areas is particularly essential in capital cases. A capital case "is an extraordinary proceeding" where "the attorney is charged with the awesome responsibility of defending a person's life." *Bailey*, 309 S.C. at 460, 424 S.E.2d at 506. To prepare for the guilt or innocence phase of a capital trial, an attorney must vigorously and thoroughly investigate the facts and circumstances of the alleged crime, which often requires the assistance of various experts. *See id.* (recognizing that unlike the solicitor, the defense attorney does not have "the entire array of state, county, and municipal law enforcement" at his disposal). Just as assistance is imperative in the guilt or innocence phase of a capital case, it is equally necessary during the sentencing phase where counsel is challenged by novel and complex issues. *See id.* at 461, 424 S.E.2d at 506-07. Due to the finality and irrevocability of the penalty of death, the United States Supreme Court has stressed the "need for reliability in the determination that death is the appropriate punishment in a specific case." *Woodson v. North Carolina*, 428 U.S. 280, 305 (1976). In order to ensure that the appropriate sentence is chosen, the Court has emphasized the importance of presenting to the sentencing body the fullest information possible concerning the defendant's life and characteristics. *See Lockett v. Ohio*, 438 U.S. 586, 605 (1978) (plurality opinion) (holding that preventing the sentencer in a capital case from considering the defendant's characteristics "creates the [unacceptable] risk that the death penalty will be imposed in spite of factors which may call for a less severe penalty"); *see also Jurek v. Texas*, 428 U.S. 262, 271 (1976) (asserting that the sentencing body must have before it all possible relevant information about the individual whose fate it must determine).

Thus, in capital cases, defense counsel has a duty to vigorously investigate and present mitigating evidence. *See Sears v. Upton*, 130 S. Ct. 3259, 3264 (2010); *Williams v. Taylor*, 529 U.S. 362, 393 (2000). This duty requires that counsel's investigations into mitigating evidence "should comprise efforts to discover *all reasonably available* mitigating evidence and evidence to rebut any aggravating evidence that may be introduced by the prosecutor." *Wiggins v. Smith*, 539 U.S. 510, 524 (2003) (quoting ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 11.4.1(C), p. 93 (1989)); *see also Padilla v. Kentucky*, 559 U.S. 356, 366 (2010) ("We long have recognized that prevailing norms of practice as reflected in American Bar Association standards and the like . . . are guides to determining what is reasonable." (internal quotation marks omitted)).

Post-conviction counsel must "continue an aggressive investigation of all aspects of the case." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.15.1(E)(4); *see also id.* 10.15.1(E)(4) commentary ("[C]ollateral counsel cannot rely on the previously compiled record but must conduct a thorough, independent investigation."). Post-conviction counsel must review the record and conduct investigation to determine whether the applicant's conviction or sentence are "in violation of the Constitution of the United States or the Constitution or laws of this state." S.C. Code § 17-27-20(A)(1). This responsibility necessarily includes determining whether the applicant received ineffective assistance of counsel during his trial. *See Strickland v. Washington*, 466 U.S. 668 (1984). If trial counsel's decision to end investigation, including mitigation investigation, was either inconsistent with professional standards or unreasonable because known information should have led counsel to investigate further, a capital defendant may have a valid claim of ineffective assistance of counsel. *See Sears v. Upton*, 130 S. Ct. 3259, 3264 (2010); *Wiggins v. Smith*, 539 U.S. 510, 533-34 (2003); *Strickland*,

466 U.S. 688, 690-91 (1984). When evaluating *Strickland* claims, courts "evaluate the totality of the evidence—'both that adduced at trial, *and the evidence adduced in the habeas proceeding[s]*.'" *Wiggins*, 539 U.S. at 536 (quoting *Williams v. Taylor*, 529 U.S. 362, 397-98 (2000)).

II. FACTS RELEVANT TO MOTION FOR AUTHORIZATION TO EXPEND FUNDS FOR EXPERT SERVICES.

Stanko was convicted and sentenced to death by an Horry County jury in connection with the April 8, 2005 murder and armed robbery of Henry Turner.[2] *State v. Stanko*, 402 S.C. 252, 258, 741 S.E.2d 708, 711 (2013). On direct appeal, the Supreme Court of South Carolina affirmed the conviction and sentence. *Id.* Stanko subsequently moved for a stay of execution in order to pursue post-conviction relief. The Supreme Court of South Carolina issued a stay of execution and assigned the post-conviction relief proceedings to this Court. Order, *State v. Stanko*, No. 2010-154746 (S.C. Nov. 7, 2013). This Court appointed undersigned counsel to represent Stanko on February 4, 2014. On April 29, 2014 this Court entered an Amended Scheduling Order in this post-conviction relief proceeding, scheduling a merits hearing for on or before February 28, 2015.

Prior to trial in Horry County, defense counsel decided to move for a change of venue. At the pre-trial motions hearing held one month prior to jury selection, however, trial counsel informed the trial court that they were not presenting the change of venue motion at that time. ROA 3110. Partway through voir dire, counsel asked for a change of venue based on members of the jury pool's prior knowledge of the case against Stanko. ROA 1284-90. The State suggested it would be better for the court to consider the change of venue argument after the jury had been

[2] Stanko was also convicted of murder and other charges in Georgetown County in connection with the April 7, 2005 murder of Laura Ling and sexual assault of Ms. Ling's teenage daughter. Mr. Stanko was sentenced to death for the murder of Laura Ling on August 18, 2006. *See State v. Stanko*, 376 S.C. 571, 658 S.E.2d 94 (2008). The Georgetown County convictions and sentence are currently the subject of a post-conviction relief proceeding in Georgetown County. Undersigned counsel do not represent Stanko in connection with his Georgetown County proceedings.

selected, but before it was sworn. ROA 1289. Defense counsel did not object to the State's suggestion and the court delayed consideration of the change of venue motion until after selection of the jury. ROA 1289-90. After the jury was selected, defense counsel formally moved for a change of venue. ROA 1334-1415. Defense counsel presented the testimony of Dr. Bernard Albiniak, an expert in social psychology, who testified that in public forums, people will conform their statements to what they believe will be generally accepted by the group even if that is not what they actually believe. ROA 1336-81. Dr. Albiniak is not an expert in media saturation; he has never conducted a media study; and, during his testimony, he did not even mention having reviewed such a study. Dr. Albiniak opined that the jurors selected in this case would do the same when asked by the court if they could set aside their prior knowledge of the case and would tell the judge they could do so even if it was not what they believed. The state pointed out that none of Dr. Albiniak's research or studies involved juror behavior. The court denied the defense motion for a change of venue. ROA 1415.

At trial, the defense presented an insanity defense during the guilt phase. The defense presented the testimony of seven experts in an effort to prove that Stanko was legally insane at the time of the crime because he is a "psychopath." After presenting this testimony, the defense argued the jury should find Stanko not guilty by reason of insanity. The jury rejected this argument and found Stanko guilty at the conclusion of the guilt phase of the trial.

Trial counsel's strategy for the penalty phase was to essentially re-offer the defense theory that Stanko was insane at the time of the crimes—a theory the juries had previously rejected in both the Ling trial and in the guilt-or-innocence phase of the Turner trial. The defense also presented a hastily prepared mitigation case, comprising of the brief testimony of a neighbor, three former teachers, and three employees of the South Carolina Department of Corrections. Finally,

the defense called a Christian Counselor, with no capital case experience, who testified that she had only recently begun working on the case and felt that Stanko dealt with some largely unspecified "difficulties" during his childhood.

Undersigned counsel have been diligently working on this matter since their appointment on February 4, 2014. Based on the totality of circumstances in this case—including counsel's review of the record, meetings with Stanko, and investigation—counsel have determined the expert services of a licensed social worker with capital case experience and media expert are imperative to assist counsel in investigating and presenting Stanko's claims for post-conviction relief.

III. FACTS AND ARGUMENT RELEVANT TO REQUEST FOR EXPERT SERVICES OF A LICENSED SOCIAL WORKER.

In all capital cases, the defendant's social history must be investigated and considered for presentation at trial. *See Weik v. State*, No. 2007-060700, 2014 WL 3610954, at *10 (S.C. July 23, 2014) ("Important sentencing considerations include a defendant's 'medical history, educational history, employment and training history, *family and social history*, prior adult and juvenile correctional experience, and religious and cultural influences'") (quoting *Wiggins*, 539 U.S. at 524); ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1, commentary ("[T]he defendant's psychological and social history and his emotional and mental health are often of vital importance to the jury's decision at the punishment phase."). The testimony of a licensed social worker is one of the most basic, fundamental elements of virtually every capital sentencing proceeding in the modern era. *See* ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases 10.11(E)(1)(a) (2008) (instructing that it is the duty of the defense team to prepare experts to testify, including social

workers "with specialized knowledge of . . . physical, emotional and sexual maltreatment, trauma and the effects of such factors on the client's development and functioning").

In this case, however, undersigned counsel's investigation reveals that trial counsel settled on a theory that Stanko is a psychopath early on in their preparation for trial and failed to adequately investigate and present other available mitigation and social history evidence as a result. Undersigned counsel's investigation has made it clear that trial counsel focused on its psychopath "defense" without sufficient investigation and conducted the remainder of their trial preparation with a sort of "tunnel vision," ignoring anything that did not fit the psychopath theory. Trial counsel relied exclusively on opinions from experts who were hired for the specific purpose of supporting the psychopath theory. These experts were not asked, or equipped, to look more broadly at Stanko's life history and its mitigating impact on his development. Trial counsel's focus on the psychopath theory thus resulted in a curtailed mitigation and social history investigation.

Trial counsel utterly failed to investigate and present the jury with an adequate and accurate overview of Stanko's life history as mitigation. Trial counsel did not call any family members and called few friends, teachers, or employers.[3] Instead, trial counsel relied solely on Evelyn C. Califf who has a doctorate in Christian Counseling and no prior capital case experience. Undersigned counsel's investigation has revealed that Califf spent only one hour with the client and spoke briefly with only one of Stanko's sisters over the telephone before trial.[4] As a result of her limited

[3] Trial counsel also failed to even interview the appropriate people in Stanko's life to develop a full understanding of his life history and mental health. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7, commentary ("It is necessary to locate and interview the client's family members (who may suffer from some of the same impairments as the client), and virtually everyone else who knew the client and his family, including neighbors, teachers, clergy, case workers, doctors, correctional, probation, parole officers, and others.").

[4] Undersigned counsel's investigation reveals that the mitigation specialist informed trial counsel that Stanko's family was reticent to become involved in the case. An experienced social worker might have been able to develop a relationship of trust with the family and develop a fuller

involvement, Califf was only able to testify generally and ineffectively about Stanko's upbringing and family life.

Undersigned counsel's investigation, conducted with the assistance of a mitigation investigator, has uncovered mitigating evidence in Stanko's social and family history that was not presented at trial. Counsel have begun to develop a relationship with Stanko's siblings and are beginning to understand the harsh environment created by Stanko's military father when the Stanko children were growing up. A licensed social worker with experience in developing, interpreting, and presenting a social history in capital cases is necessary in order to understand counsel's findings, to continue building a relationship with Stanko's siblings, and to develop and present Stanko's claims for post-conviction relief. *See* ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases 10.11(E)(1)(a) (instructing a defense team to work with a social worker "with specialized knowledge of . . . physical, emotional and sexual maltreatment, trauma and the effects of such factors on the client's development and functioning"). Given the fact that trial counsel prematurely abandoned investigation into Stanko's life history and its effect on Stanko's mental health, undersigned counsel believe that Stanko has a viable claim for ineffective assistance of counsel under *Sears*, *Porter*, *Wiggins*, *Williams*, and *Strickland*.[5]

The fact that trial counsel presented the testimony of mental health experts and some social history evidence does not negate Stanko's claim. The Supreme Court of South Carolina recently overturned a circuit court's denial of post-conviction relief where trial counsel presented the

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understanding of Stanko's life history. At the very least, the involvement of a social worker earlier would have allowed that person to get a better understanding of the family dynamic and testify in detail with actual examples at trial.

[5] This claim was included in Stanko's First Amended Application for Post-Conviction Relief as Claim 10(e).

testimony of three mental health experts and a social history witness. *See Weik*, 2014 WL 3610954. The court found that "[t]hough counsel introduced *psychological* testimony regarding Petitioner's mental illness, counsel failed to present even a skeletal version of Petitioner's *social history* even though there was abundant social history evidence available to them." *Id.* at *11 (emphasis original). Stanko's cases involve the same circumstances where trial counsel focused their investigation and mitigation presentation on mental health evidence, while ignoring social history evidence readily available to them.

The assistance of a licensed social worker with capital case experience is therefore necessary to assist undersigned counsel in developing an understanding of Stanko's social history as it mitigates his crime and correlates to his mental health and in presenting related issues to this Court in support of his post-conviction relief claims. This Court must, therefore, authorize funds for a licensed social worker as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

The current CV of licensed social worker Dr. Arlene Andrews is attached. Undersigned counsel have conferred with Dr. Andrews; she is willing and able to assist counsel in this case. Counsel, with input from Dr. Andrews, estimate that expenditure of approximately 100 hours is reasonably necessary to conduct the required evaluation in this case. Dr. Andrews' rate is $130 per hour. Dr. Andrew's rate is reasonable given her experience and the fact that, in counsel's experience, this rate is on the low end of the average rates charged by expert Licensed Social Workers in South Carolina.

IV. FACTS AND ARGUMENT RELEVANT TO REQUEST FOR EXPERT SERVICES OF A MEDIA SATURATION EXPERT.

The media coverage of Stanko's crimes and trial began immediately after the crimes occurred. Local and national media has continually covered all stages of Stanko's case, including

law enforcement's national manhunt for and arrest of Stanko, preparations for his trial in Georgetown, each day of the trial in Georgetown County, Stanko's conviction and death sentence in Georgetown County, and preparations for Stanko's trial in Horry County. In fact, the entire Georgetown County trial was covered by 48 Hours, which aired an hour long special on Stanko multiple times prior to Stanko's trial in Horry County. Trial counsel were aware of the media coverage surrounding Stanko's case before the jury was selected in Horry County, yet trial counsel did not present the trial court with any information about media coverage in moving for a change of venue.

The Sixth Amendment guarantees a criminal defendant the right to a trial by a fair and impartial jury. U.S. Const. amend. VI. Pretrial publicity about a case can be so pervasive and saturate the community to such an extent as to make it impossible to select an impartial jury from the community where the crime occurred. *See Rideau v. Louisiana*, 373 U.S. 723 (1963). In such a case, the pretrial publicity creates a presumption of juror prejudice and demonstrates that an impartial jury cannot be selected from a local jury pool. *See Skilling v. United States*, 561 U.S. 358 (2010).

In this case, the Horry County community was inundated with media detailing the crimes for which Stanko stood trial and Stanko's conviction and death sentence in Georgetown County. The media even extensively covered and detatiled the trial strategy used in Georgetown County which was again presented in a nearly identiecal fashion to the Horry County jury. This creates a likelihood that, with the services of an appropriate expert, Stanko could have shown that an impartial jury could not have been selected from residents of Horry County. Trial counsel, however, presented no evidence relating to the amount and type of media coverage the potential jurors encountered in their daily lives before becoming members of the jury pool. This creates a

strong likelihood that Stanko has viable claim for ineffective assistance of counsel under *Strickland*. An expert in media studies and media saturation is therefore necessary to conduct a study of the media coverage leading up to Stanko's trial and to present that evidence to the Court. The study, counsel believe, will demonstrate that the media surrounding Stanko's case saturated the Horry County community, making it impossible to select an impartial jury from that location. Further, the study will show the information that trial counsel should have presented to the trial court in support of the motion for a change of venue. This Court must, therefore, authorize funds for a media expert as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

The current CV for Professor Neil Vidmar is attached. Undersigned counsel have conferred with Professor Vidmar about being retained on Stanko's case. He is willing and able to assist counsel in conducting a media study for Stanko's case. Professor Vidmar made an initial review of the media surrounding the case and has confirmed the media study can be completed retroactively. Professor Vidmar has experience conducting and testifying regarding retroactive media studies in post-conviction cases. Counsel have conferred with Professor Vidmar and estimate that expenditure of approximately thirty hours[6] is reasonably necessary to conduct the required study and provide testimony in this case. Professor Vidmar's rate is $300 per hour. An affidavit from Professor Vidmar is also attached, demonstrating that his rates are reasonable given the fact that he has earned the same amount or significantly higher amounts in other cases on which he has recently been retained.

[6] The hours needed to conduct the media study are estimated at merely thirty hours because undersigned counsel, through their positions at the Death Penalty Resource & Defense Center and in an effort to conserve court resources, will have student assistance in collecting and organizing the relevant media for the study. Professor Vidmar, therefore, will require less time to review the materials and form his conclusions.

V. SUMMARY OF REQUESTED EXPENDITURES.

For all of the reasons set forth above, Stanko requests the following expenditures:

Licensed Social Worker

To investigate, evaluate, and develop an understanding Stanko's social history, its mitigation of his crime and correlation to his mental health, and to assist post-conviction counsel in presenting mitigating evidence related to Stanko's social history, Stanko requests authorization for the initial expenditure of $13,000 and reasonable expenses to retain a Licensed Expert in Social Work to be paid at a rate of $130 per hour.

Media Expert

To conduct a study of the media surrounding his case and present the conclusions of that study to the Court, Stanko requests authorization for the expenditure of $9,000 and reasonable expenses to retain a media expert to be paid at a rate of $300 per hour.[7]

[7] At this time, undersigned counsel are not aware of any additional investigators or experts who may be necessary for the adequate development and presentation of Mr. Stanko's claims for post-conviction relief. However, it is often the case that additional claims and corresponding needs arise as a capital post-conviction investigation progresses over time. In the event that counsel later becomes aware of a need for additional expert or investigative services, counsel will notify this Court in writing via a second motion for funding. Moreover, the specific funding requests included in this motion represent counsel's best effort, in consultation with the respective experts, to estimate the amount of time reasonably necessary to adequately investigate and present Mr. Stanko's claims. At this early stage in the investigation, however, it is often difficult to accurately predict the totality of the required funds, and it is not uncommon that counsel will need to file additional requests to make adjustments as necessary. Counsel will carefully monitor the progress of the investigation and the various expenditures required, and notify this Court in writing via additional funding motions if additional funds become necessary.

CONCLUSION

Wherefore, based on the above statements of facts and arguments, undersigned counsel respectfully request the funds requested in this motion for expert services. [8]

July 28, 2014

Respectfully submitted,

EMILY C. PAAVOLA
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803-765-1044

LINDSEY S. VANN
Death Penalty Resource & Defense Center
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803-765-1044

[8] A proposed order granting this motion is attached for the Court's consideration.

CURRICULUM VITA

ARLENE BOWERS ANDREWS

Address: College of Social Work, Desaussure College
University of South Carolina, Columbia, SC 29208
Phone: (803) 777-5291
FAX: (803) 777-3498
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Educational History

Ph.D., 1985 (Clinical-Community Psychology), University of South Carolina, Columbia, S.C.
M.S.W., 1974 (Community Social Work), University of South Carolina, Columbia, S.C.
B.A., *magna cum laude*, 1972 (Psychology and Sociology), Duke University, Durham, N.C.

Professional Positions

Licensed Independent Social Worker (LISW), S.C. no. 706. Level: Clinical Practice (CP) and Advanced Practice (AP).

Carolina Distinguished Professor Emerita, June 2013-present.

Carolina Distinguished Professor, University of South Carolina, College of Social Work, Columbia, S.C, (May 2008-June 2013); Professor (May 1999 – May 2008); Associate Professor (April 1991 – May 1999); Assistant Professor, August 1986- April 1991. Teaching areas: Community organization and social administration, policy, discrimination/deprivation, research, electives on child abuse/neglect, child psychopathology, victimization, doctoral dissertation preparation, management.

Director, University of South Carolina Institute for Families in Society, 1999-2006; Director, Division of Family Policy 1995-1999; Associate Director, 1994-95. Interim Co-Director, July 1992-June 1994. Direct interdisciplinary research and training with emphasis on family enhancement.

Project Director, University of South Carolina, Child Abuse and Neglect Interdisciplinary Training Project, Columbia, S.C. 29208. October 1987 - October 1990. Duties: Direct training project for master's and doctoral students in social work, psychology, medicine, criminal justice, education, health and nursing.

Partner, Social Policy Resource Associates, P.O. Box 8514, Columbia, S.C. 29202. June 1984 - June 1987.

Lecturer and Training Coordinator (part-time faculty position), University of South Carolina, College of Social Work. August 1983 - August 1986. Taught introductory and advanced graduate courses in macro-level social work skills and discrimination/deprivation and directed a field project funded by the National Institute of Mental Health to train six graduate students in child abuse and neglect intervention.

Executive Director, SISTERCARE, INC., Columbia, S.C. August 1981 - August 1983. Duties: Directed the establishment of this new agency serving abused women and their children in a four-county area.

Instructor, University of South Carolina, Department of Psychology, July 1980 - August 1981. Duties: Teaching "Psychology of Marriage".

Executive Director, Council on Child Abuse and Neglect, Inc., (now known as

Prevent Child Abuse – South Carolina), Columbia, S.C. May 1977 - August 1978. Duties: Directed the establishment of this new agency for the prevention of child abuse and neglect.

Director of Research and Evaluation, S.C. Office of the Governor, Office of Social Development, Columbia, S.C., July 1974 - April, 1977.

Social Worker, S.C. Department of Mental Retardation, Midlands Center for the Retarded. Columbia, S.C., June - December, 1973.

Professional Activities

Publications

Books:

Andrews, A.B. (2007). *Social History Assessment.* Newbury Park, CA: Sage Press.

Beck, E., Britto, S. & Andrews, A. (2007). *In the Shadow of Death: Restorative Justice and Death Row Families.* Oxford University Press.

Andrews, A. B., Culp, J., & Dexter, A. (2006). *Send Me! The Story of Salkehatchie Summer Service.* Nashville, TN: Providence House Publishing.

Ben-Arieh, A., Kaufman, N. H., Andrews, A.B., Goerge, R., Lee, B. J., & Aber, L.J. (2001). *Monitoring and Measuring Children's Well Being.* NY: Kluwer.

Andrews, A.B. & Kaufman, N.K. (Eds.) (1999). *The UN Convention on the Rights of the Child: Implementing the Right to an Adequate Standard of Living.* Westport, CT: Praeger.

Andrews, A.B. (1992). *Victimization and Survivor Services,* NY: Springer.

Book chapters, articles, and monographs:

Andrews, A. B. (in press). Oral history and social work. *Encyclopedia of Social Work.* NY: Oxford University Press.

Andrews, A. B. (in press). Promoting child well-being through self-help and mutual support among parents. In J. Korbin & R. Krugman (Eds.). *Child Maltreatment Handbook.* Vol 2, Springer Series on Child Maltreatment.

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Andrews, A. B. (2007). Social work and survivor assistance. In A. R. Roberts & D. W. Springer (Eds.), *Forensic social work in juvenile and criminal justice: An evidence-based handbook* (pp. 247-268). Springfield, IL: Charles Thomas Publisher.

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empowerment evaluation team. *Journal of Community Practice, 13* (4), 85-104.

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Andrews, A. B. & Freeman, M. L. (1997). The congruence of international children's rights and feminist principles as a foundation for therapy with young people. *Women and Therapy, 20*(2), 7-27.

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Patterson, E.G. & Andrews, A. B. (1996). Civil commitment for pregnancy substance abusers: Unmet preconditions and preoccupation with punishment. *Politics and the Life Sciences, 15*(1), 64-66.

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Andrews, A. B. & Patterson, E. G. (1995). Searching for solutions to alcohol and other drug abuse during pregnancy: Ethics, values and constitutional principles. *Social Work, 40*(1), 55-64.

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Andrews, A. B. (1990). Crisis and recovery services for family violence survivors. In Roberts, A. R. (Ed.), *Helping crime victims: A National survey and service guide,* Beverly Hills: Sage, 206-232.

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Wandersman, A., Andrews, A. B. Riddle, D. and Fancett, C., (1983). "Environmental Psychology and Prevention." In Felner, R., Farber, S., Jason, L., and Moritaugu, J. (Eds.), *Preventive Psychology: Theory, Research, and Practice.* NY: Permagon.

Research Activities

Andrews, A. B., Shapiro, C., Whitaker, P., & Lize, S. (2013-present). An Examination of Incremental Benefit of Two Parenting Approaches for Enhancing Child Outcomes: Mutual Support and Behavioral Family Intervention. Funded by USC Provost Office.

Andrews, A. B., Otto, J., & Linkenbach, J. (2012-preesnt). Getting to Wisdom: Qualitative Evaluation to Discern Practical Lessons in Community Coalitions and Transformation. Through the Montana Institute for Prevention.

Andrews, A. B. & Hayes, Kathleen. (2011-2012). Jobs Not Jail: A Better Alternative Demonstration Project Evaluation. SC Center for Fatherhood and Families (affiliated with Sisters of Charity Foundation).

Andrews, A. B. Stakeholder identification and engagement. (Spring 2011). In Linkenbach, J. *Positive Community Norms Workbook.* Montana State University.

Andrews, A. B., McMillan, L., & Brown, E. (2009). *A Child's Haven: Family Support Program Evaluation.* Greenville, SC.

Andrews, A. B., & McMillan, L. (2009). Evidence-based practices to support effective parenting for families in the child welfare system. Produced through the USC Center for Child and Family Studies for the SC Dept. of Social Services.

Andrews, A.B. Fahs-Beck Fellow, Fahs-Beck Fund for Research and Experimentation of The New York Community Trust, for work on "Effects of Shared Leadership on Service Providers and Parents for Vulnerable Families." Awarded Jan. 2008.

Andrews, A. B., Leith, K., Rivers, J., & Gibson, R. *Midlands Area Consortium for the Homeless: Needs and Resource Assessment 2005.* August 2005.

Andrews, A. B. & Motes, P. S. (2004-2005). Technical Assistance Regarding Systems Reform of Services to Children, Adolescents, and Families at the SC Department of Mental Health.

Andrews, A.B. Use of the genogram in mitigation assessment and testimony. 2002 Award of the American Psychological Foundation Randy Gerson Memorial Grant Fund.

Andrews, A.B. & Wandersman, A., *et al.* Consultation and technical assistance regarding SC First Steps to School Readiness statewide initiative. SC Office of First Steps, Columbia, SC, August 1999 – Dec. 2002.

Andrews, A.B., Floyd, A.G., *et al.* Consultation regarding community partnerships for children and families. The Duke Endowment, Charlotte, NC. Aug 1998 – Dec 2002.

Andrews, A.B. & Luckey, I. Co-p.i.'s. Technical assistance and evaluation of the Fatherhood Engagement Initiative, Sisters of Charity Foundation - S.C. Statewide, South Carolina. Feb 1999 - present.

Andrews, A. B., Flerx, V., Cokkinides, V., & Bolden, E. Local evaluation of Pee Dee Healthy Start, regional system reform to reduce infant mortality and promote healthy birth outcomes. Jan 1997 – May 2001.

Andrews, A. B., Motes, P., Lopez-DeFede, A. et al. Empowerment evaluation consultation to the Building a Better Future Initiative of the Foundation For The Carolinas, Charlotte, NC. April 1997 – September 2000.

Andrews, A. B. & Cokkinides, V. Consultation regarding measurement of consumer empowerment and community change in neighborhoods served by Healthy Start. University of South Florida, Tampa. March – Dec. 1998.

Andrews, A. B. & Morrison, B. The changing American family: Impact on South Carolina's children. Consultation with the S.C. Maternal, Infant, and Child Health Council. Fall 1996-Winter 1997.

Andrews, A. B. Coordinator of "Personal Life Skills" work group for the international project to measure and monitor the well-being of children beyond survival. Lead organization: national Council for the Child, Israel.

Andrews, A. B., Project Director. Family needs and resources in South Carolina communities: A study to support community action to strengthen families. 1994-95.

Andrews, A. B., Principal Investigator. Ways and means: A study of how transient families move toward stability. 1994-95.

Andrews, A. B., Supervisor of graduate social work student research groups which produced these reports: "Evaluation of the victim impact statement as used in Richland County, Fifth Judicial Circuit, S.C.", 1987. "Preliminary Study of Factors Associated with Divorce Mediation in Child Custody Disputes", 1988.

Consultation

Centers for Disease Control and Prevention, Knowledge to Action Child Abuse Prevention Consortium; US DHHS Office of Women's Health Trauma Initiative; Centers for Disease Control and Prevention, Violence Against Women Initiative; National Consortium for Capital Defense Training; S. C. Office of First Steps, Assessing Child's Readiness for School; South Carolina Dept. of Mental Health, Systems of Care Strategic Planning, 2004-5;

South Carolina First Steps to School Readiness (46 county partnerships); Central Carolina Community Foundation; Federation of Families – SC; The Duke Endowment Child and Family Services Program (12 community partnerships); Sisters of Charity Foundation Fatherhood Engagement Initiative (18 community programs); Pee Dee Healthy Start (7 counties); Foundation For The Carolinas (Charlotte, NC) (26 community programs); S.C. Coalition against Domestic and Sexual Assault; Alliance for South Carolina's Children (co-founder); Council on Child Abuse and Neglect, Inc. (now Prevent Child Abuse-SC); Rape Crisis Network; Cooperative Ministries; Carolina Children's Home; the Nurturing Center; SISTERCARE, Inc.; Richland County Volunteer Guardian ad Litem; Department of Social Work, Medical University of South Carolina, Charleston, SC; Thompson Children's Home (therapeutic residential center), Charlotte, NC; Barnwell County HELPLINE; South Carolina Chapter, National Association of Social Workers; Coalition to Assist Abused Persons, Inc., Aiken, S. C.

Expert witness, impact of child history on adult behavior; child welfare services. State and federal courts in California, Georgia, North Carolina, South Carolina, and Texas.

Current Editorial Service

Reviewer, *Child Abuse and Neglect: The International Journal.*
Reviewer, *Administration in Social Work.*

Memberships

National Association of Social Workers
American Psychological Association
- Div. 9 – Psychological Study of Social Issues
- Div. 27 – Community Research and Action
- Div. 37 – Child and Family

American Evaluation Association
Association for Community Organization and Social Administration
American Professional Society on the Abuse of Children
Midlands Women in Philanthropy
USC: Women's Studies faculty; Consortium on Latino Immigration Studies

Service and Other Accomplishments

Recipient, 2012 USDHHS Administration on Children, Youth, and Families Commissioner's Award for the State of South Carolina.

American Red Cross volunteer, Armed Forces Emergency Services (AFES), Sept 2008-2010

Recipient, 2008 Woodrow B. Seals Laity Award, presented by Perkins School of Theology, Southern Methodist University

Certificate of completion, Introductory Spanish for Social Scientists and Social Workers (three-week course), Centro Panamericano de Idiomas (CPI), Heredia, Costa Rica, May-June, 2002

Leader, United Methodist Volunteers in Mission youth team to Nicaragua, May-June, 2006, 2011; 2012

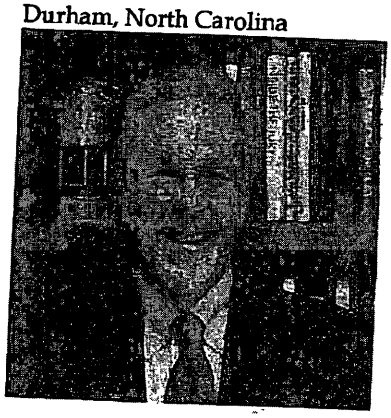
Assistant Camp Director or Adult Counselor, Salkehatchie Summer Service, each year from 1993-2011

Gubernatorial appointee (eight years, appointed by Gov. Riley and Gov. Campbell), Joint Legislative Committee on Children and Families, S. C. General Assembly

Board memberships at various times for the following: Parents Anonymous (national) Child Maltreatment Prevention Work Group; The Nurturing Center (child maltreatment family-based intervention), S. C. Christian Action Council (interfaith justice ministry), Southern Regional Council – Atlanta, Georgia (civil right and justice advocacy), S. C. Children's Voices (policy advocacy), Growing Home (national therapeutic foster care), Prevent Child Abuse –S. C., Sistercare, SC Chapter of the American Professional Society on the Abuse of Children (SCAPSAC) State Advisory Board on Training for Victim Services Providers, S.C. Office of the Governor

CURRICULUM VITAE

Durham, North Carolina



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EDUCATION

Ph.D. Social Psychology, University of Illinois. Urbana, Illinois, June, 1967
Secondary study in: Sociology and Experimental Psychology.

M.A. Psychology, University of Illinois. Urbana, Illinois, October, 1965.

A.B. Psychology, *cum laude*, MacMurray College, Jacksonville, Illinois June, 1962, Minor in Sociology.

AREAS OF SPECIALIZATION

My early research was on conflict and group decision-making. Since about 1970, my scholarly efforts have been directed primarily at the interface of social science and law. I conducted a three-year field study of dispute resolution in a small claims court, undertook a number of in-depth field studies of grievance and dispute behavior, and conducted a study of the Ontario Business Practice Act. For almost two decades I have been studying medical malpractice litigation and continue with that subject. I was co-principal investigator of the Arizona Jury Project that taped and analyzed the actual deliberations of 50 civil juries. Additionally, I have conducted research on procedural justice and the social psychological dynamics of justice behavior. A special interest is the social psychology of retribution. Other projects have involved experts, the empirical behavior of the tort system and research bearing on the accuracy of eyewitness identification. I am starting research on legal malpractice.

My scholarly interests also extend to criminal law. I have published articles pertaining to the death penalty and on jury behavior in criminal cases and have drafted amicus briefs on criminal matters before the U.S. Supreme Court and elsewhere. I have conducted research and published articles in leading journals on the topic of pre- and mid-trial prejudice in the United States, Canada, England, New Zealand and Australia. I have also edited *World Jury Systems*

(2000), a book that involves a comparative study of the jury systems of Australia, Canada, England, Ireland, New Zealand, Russia, Scotland, Spain, the United States and other countries.

TEACHING INTERESTS

Social Science Evidence in Law, Negotiation and Mediation, Psychology of the Litigation Process, American Jury, Social and Psychological Context of Law (Law and Society), Conflict and Dispute Resolution, Social Psychology.

POSITIONS/EXPERIENCE

1989-	Russell M. Robinson, II Professor of Law, Duke University School of Law and Professor of Psychology, Duke University, Durham, North Carolina. Research Director , Duke Law School's Center for Justice and Professional Responsibility (2009); Member of Duke Institute for Brain Sciences (2009)
1987-1988	Visiting Professor of Law and Social Science, Duke University School of Law, Durham, North Carolina.
1989-1996	Professor of Social Science and Law, Duke University School of Law; Vice President and Research Director, the Private Adjudication Center, Durham, North Carolina.
1986-1987	Vice President for Research, Private Adjudication Center of Duke University School of Law, Durham, North Carolina.
1986	Visiting Professor of Law, Osgoode Hall Law School, York University, Downsview, Ontario, Canada.
1984	On leave as Visiting Professor, Osgoode Hall Law School, York University, Downsview, Ontario, Canada.
1981-1990	Professor of Psychology and Professor of Law, University of Western Ontario, London, Canada.
1974-1975	On leave as Visiting Research Fellow, Battelle Seattle Research Center, Seattle, Washington.
1973-1974	On leave as Russell Sage Resident in Law and Social Science, Yale Law School, New Haven, Connecticut.
1971-1980	Associate Professor, Department of Psychology, University of Western Ontario, London, Canada.
1967-1971	Assistant Professor, Department of Psychology, University of Western Ontario, London, Canada.
1967 *(Summer)*	Research Associate, Danville Veterans Administration Hospital, Danville, Illinois.

POSITIONS/EXPERIENCE

1966-1967	Research Associate, Department of Psychology, University of Illinois, Urbana.
1963-1966	Teaching and/or Research Assistant, Department of Psychology, University of Illinois, Urbana.
1962-1963	USPHS Fellow, University of Illinois, Illinois.
1962	Certificate of Competency of Coal Miner, State Miner's Examining Board, Department of Mines and Minerals, State of Illinois, March 1962.

FELLOW

Fellow of the Association for Psychological Science

ACADEMIC SERVICE

LAW AND SOCIETY REVIEW, Editorial Board

JOURNAL OF EMPIRICAL LEGAL STUDIES, Academic Advisory Board

Roscoe Pound Foundation, Academic Advisory Board

Grant Sawyer Center for Justice Studies, University of Nevada Advisory Board

PSYCHOLOGY, PUBLIC POLICY AND LAW, Editorial Board

Section Chair: Law and the Social Sciences, Association of American Law Schools

LAW & SOCIAL INQUIRY, Editorial Board

LAW AND HUMAN BEHAVIOR, Editorial Board

LEGAL AND CRIMINOLOGICAL PSYCHOLOGY, Editorial Board

PSYCHOLOGY, CRIME, AND LAW, Editorial Board

CANADIAN JOURNAL OF LAW AND SOCIETY, Advisory Board

National Research Council, Law and Justice Committee

Law and Society Association Treasurer

Law and Society Association Trustee

JOURNAL OF APPLIED SOCIAL PSYCHOLOGY Editorial Board

Canadian Law and Society Association, Board of Directors

LEGAL CONSULTING AND TESTIMONY

Law and Justice Committee of the National Research Council, Washington, D.C.

Law Reform Commission of Ontario; Ontario Ministry of the Attorney General

Consultant for Solicitor General of Canada on Firearms Control Legislation Implementation

Ontario Ministry of the Attorney General: Access to Justice Project ; Ontario Ministry of Consumer and Commercial Relations: Expert Panel on Guiding Principle for Consumer Protection/Business Practices Strategies; Consultant for Canadian Law Information Council ; Consultant for Committee on Statistics in the Courts: (U.S.) National Academy of Sciences; Consultant for Police Powers Project, Law Reform Commission of Canada; Advisory Committee on the Jury, Law Reform Commission of Canada; NAACP Legal Defense Fund's Capital Punishment Project (U.S.)

Expert Testimony and Consulting (partial listing):

United States of America: Supreme Court of the United States, California, Connecticut, Florida, Illinois, Indiana, Kentucky; Louisiana; Missouri; North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, West Virginia ; and also re North American Free Trade Agreement dispute.

Canada: Supreme Court of Canada, British Columbia, New Brunswick, Newfoundland, Ontario, Prince Edward Island, and Saskatchewan,

New Zealand; Australia; England and Wales; Hong Kong

RESEARCH GRANTS

National Science Foundation; Robert Wood Johnson Foundation; State Justice Institute;

Russell Sage Foundation; Ontario, Ministry of the Attorney General; Social Sciences and Humanities Research Council of Canada; Ontario Ministry of Transportation and Communication; Solicitor General of Canada ; The Donner Canadian Foundation; Social Sciences and Humanities Research Council of Canada; Law and Society Association; Canada Council.

PUBLICATIONS

Books:

Vidmar, N. and Hans, V. P., AMERICAN JURIES: THE VERDICT, Prometheus Books (2007).

Vidmar, N. (Ed.) WORLD JURY SYSTEMS, Oxford England: Oxford University Press (2000). [Translated into the Korean Japanese with a foreword by Vidmar, 2007 and into the Georgian language, 2010.]

Vidmar, N. MEDICAL MALPRACTICE AND THE AMERICAN JURY: CONFRONTING THE MYTHS ABOUT JURY INCOMPETENCE, DEEP POCKETS, AND OUTRAGEOUS DAMAGE AWARDS, University of Michigan Press (1995).

Hans, V, and Vidmar, N. JUDGING THE JURY. Plenum Press (1986). [Translated into Japanese, (2000).]

Bermant, G., Nemeth, C. and Vidmar, N. (Eds.) PSYCHOLOGY AND THE LAW: RESEARCH FRONTIERS: Lexington, Massachusetts: Lexington Books (1976).

Articles, Legal Submissions and Reviews:

Vidmar,N & Griffin,L. *Amicus, Warger v. Schauers* U.S. Supreme Court No.13-517 ,filed June 2014 Re historical rule re dishonesty during voir dire in voir dire.

Vidmar, N.J. and Coleman, James E., The American Adversary System: Sources of Error in the Criminal Adjudication Process, in James Acker et al. *Examining Wrongful Convictions: Stepping Back, Moving Forward.* Carolina Academic Press (2014).

James E. Coleman and Neil Vidmar (authors) Amicus brief for North Carolina Conference of the NAACP in *State of North Carolina v Golphin et al.* No. 139PA13-1Supreme Court of North Carolina (January 10, 2014). re NC Racial Justice Act litigation.

Kritzer, H. Liu, G., & Vidmar, N. An Exploration of "Non-economic" Damage Awards, 55 William & Mary L. Rev. 971-1027 (March 2014).

Vidmar, N., Media Impact on Trial by Jury, in Andrew Taslitz, ed., *A Criminal Practitioner's Guide to Managing the Media in Client Representation*, ABA Press, 2013.

Vidmar, N. (Principal Drafter) Amicus Brief, *State of North Carolina v. Marcus Reymond Robinson,* Supreme Court of North Carolina, 12 th District, Cumberland county No. 411A94-5 (August 9,2013) re North Carolina Racial Justice Act

Neil Vidmar, principal drafter of amicus brief: *Larry E. Mann v. State of Florida on petition for Writ of Certiorari In the Supreme Court of the United States,* James E. Coleman, Counsel of Record, April 8, 2013. (re death penalty appeal)

Vidmar, Testimony re "Excessive Litigation's Impact on America's Global Competitiveness" before the Judiciary's Subcommittee on the Constitution and Civil Justice, United States Congress, March 5, 2013.

Vidmar, N., The North Carolina Racial Justice Act: An Essay on Substantive and Procedural Fairness in Death Penalty Litigation, 97 (2012 *Iowa Law Review* 1969.(Tribute to David Baldus),

James E. Coleman, Jr., Theresa A. Newman, Neil Vidmar, & Elizabeth Zoeller, Don't I Know You? The Effect of Prior Acquaintance/Familiarity on Witness Identification, 2012 *The Champion* 52-56 (April 2012) .

Vidmar et al. *Watts v. Cox Medical Centers* Supreme Court of Missouri , No. 91867 (filed October 20, 2011). [Medical Malpractice Litigation]

Vidmar et al. *McCall v. United States,* Supreme Court of Florida, SC 11-1148 Case # 09-16375J [Medical Malpractice litigation] (Filed August 20, 2011).

Schuller, R. and Vidmar, N. The Canadian Criminal Jury, 86 *Chicago-Kent Law Review* 487 (2011)

Vidmar, N. The Psychology of Trial Judging. 20 *Current Directions in Psychological Science* 58 (2011).

Holman, M., Vidmar, N. and Lee, P. Most Claims Settle: Implications for Alternative Dispute Resolution from A Profile of Medical Malpractice Claims in Florida, 74 *Law & Contemporary Problems* 103 (2011).

Vidmar, Coleman, & Newman, Rethinking Reliance on Eyewitness Confidence, 94 Judicature 16-19 (2010).

Vidmar et al., , Amicus on eyewitness identification, in *State of Connecticut v. Brady Guilbert* Supreme Court of Connecticut, No. 17948, November 1, 2010. [Court decision: http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR306/306CR211.pdf; concurrence http://www.jud.ct.gov/external/supapp/Cases/AROcr/CR306/306CR211A.pdf

Vidmar, N. et al, Drafter of amicus for scholars in support of litigants in capital punishment litigation under the North Carolina Racial Justice Act, August 2010. Brief of *Jatiyah al Bayyind;* and brief *of Guy Tobias LeGrande*

Vidmar, N. Lay Persons in the Legal Process, in P. Cane and H. Kritzer, *The Oxford Handbook of Empirical Legal Studies*, Oxford University Press (2010).

Vidmar, N. and Holman, M., The frequency, predictability and proportionality of jury awards of punitive damages in 2005: a new audit, Vol. XLIII *Suffolk Law Review* 101-138 2010.

Vidmar, N., Coleman, J, and Newman, T., Rethinking reliance on eyewitness confidence, 94 *Judicature* , No.1, July-August, 2010

Vidmar, *Law & Politics Book Review, Vol. 20 No. 2 (February, 2010) Overcoming Historical Injustices: Land Reconciliation in South Africa*, by James L. Gibson. New York and Cambridge: Cambridge University Press, 2009 .

Vidmar, N. and Wolfe, M.W. Punitive Damages. 5 *Annual Review of Law and Social Science*, 179-199 (2009). Vidmar, N. The Competence of Juries, in eJournal USA U.S. State Department 2009.

Michaels,D. and Vidmar, N., eds., *Conventions in Law and Science*, 72 LAW & CONTEMPORARY PROBLEMS (Winter 2009).

Saks et al. Amicus brief supporting Petition for Writ of Certiorari in *Gonzalez v. Florida*, No. 08-6833, United States Supreme Court (November 9, 2008).

Vidmar, N., Affidavit and Testimony (via video-link) on behalf of Solicitor General in *Solicitor-General of New Zealand v. Fairfax New Zealand Publications and Pankhurst*, High Court of New Zealand, Wellington Registry, September 16, 2008.

Vidmar, N. Affidavit on behalf of Plaintiff in *Klotz v. St Anthony's Medical Center* , in the Circuit Court of the County of St. Louis, Division No.:13,Cause No.:06CC-4826, September 15, 2008.

Baker, Tom, Kritzer, Herbert M. and Vidmar, Neil, Jackpot Justice and the American Tort System: Thinking Beyond Junk Science (July 1, 2008). Available at SSRN: http://ssrn.com/abstract=1152306 or http://dx.doi.org/10.2139/ssrn.1152306

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Vidmar, N. Judging the Jury. Presentation to Supreme Court Judges of Western Australia, Perth,Australia, June 26, 2007.

Vidmar, N. Participant, Conventions in Science and the Law, Coronado Conference IV, Mt. Washington Resort, Bretton Woods, NH, May 3-4, 2007.

Vidmar, N., Discussant, Symposium on Genuine Tort Reform, Papitto School of Law, Roger Williams University, Bristol Rhode Island, April 20, 2007.

Vidmar, N., Theory, Data , and Ecological Validity, Conference on Law and Mind Sciences, Harvard Law School, Cambridge ,MA, March 10, 2007.

Vidmar, N., Juries and Punitive Damages, presentation to the AEI-Brookings First Annual Judicial Symposium on Civil Justice Issues , Washington DC, Georgetown Law School , December 7, 2006.

MacKillop, K. and Vidmar, N., Legal Malpractice: A Preliminary Inquiry, presented at First Annual Conference on Empirical Legal Studies, U. of Texas School of Law , Austin TX, Oct 27-28, 2006.

Vidmar, N., Discussant on Avraham and Schanzenbach,Tort Reform and Private Health Insurance Coverage, at First Annual Conference on Empirical Legal Studies , U. of Texas School of Law , Austin TX, Oct 27-28, 2006.

Vidmar, N. Participant, Panel on *Philip Morris v. Williams* sponsored by American Constitution Society at National Press Club, Washington , D.C. October 24, 2006

Vidmar, N. Participant, Citizen Participation in East Asian Legal Systems, Cornell Law School, Ithaca , N.Y., Sept 21-22, 2006.

Vidmar, N. Testimony before The Senate Committee on Health, Education, Labor and Pensions; Hearing on Medical Liability: *New Ideas for Making the System Work Better for Patients.* Washington, DC, June 22, 2006.

Vidmar, N. Participant, Conference: *Truth and Advocacy: The Quality and Nature of Regulation and Regulatory Science.* Coronado Conference III, San Diego, March 9-10, 2006.

Vidmar, N. Comments on *Duncan v. Louisiana.* Conference on Criminal Procedure Stories, Harvard Law School, April 21-22, 2006.

Vidmar, N. Participant, Conference: *Medical Malpractice: Has the Research Helped or Hindered Our Search for Solutions?* Invitational meeting sponsored by Robert Wood Johnson Foundation, Washington , DC, May 3, 2006.

Vidmar, N. Presented: *Civil Juries in Ecological Context: Methodological Implications for Research.* Conference on Civil Juries and Civil Justice, University of Nebraska, Lincoln, May 15-17, 2006.

Vidmar, N. Presented: *Medical Malpractice Litigation in Pennsylvania.* Pennsylvania Bar Association, May 2006

Vidmar, N. Presented: *The Promise and Perils of Archival Data for Tort Reform Research.* Annual Meeting of the Association of American Law Schools. Washington, DC, January 5, 2006.

Vidmar, Lee and MacKillop, Presented: *Million Dollar Medical Malpractice Cases in Florida: Post-Verdict Adjustments and Pre-Suit Settlements.* Conference on Medical Malpractice, Vanderbilt Law School. Nashville, Tennessee, October 21, 2005.

Vidmar, N. Presented: *Jury Reforms and Jury Performance.* Annual Conference of the American Judges Association, Anchorage, Alaska September 20, 2005.

Vidmar, N. Presented: *A Transnational Perspective on Pretrial Prejudice.* Conference on Psychology and Law, Law and Psychology Colloquium, Faculty of Law, University of London. London, England, July 14-15, 2005.

Vidmar, N. Responses to Session: *A Ten-year Perspective on Vidmar Medical Malpractice and the American Jury (1995).* Annual Law and Society Meeting. Las Vegas, Nevada, June 3, 2005.

Vidmar, N. Presented: *Medical Malpractice and the Tort System in Illinois.* Annual Law and Society Meetings, Las Vegas, Nevada, June 3, 2005.

Vidmar, N. Testimony: *Research on Medical Malpractice Litigation in the United States and Tort Reform.* Before the Committee on the Judiciary of the Connecticut General Assembly. Hartford, Connecticut, April 8, 2005.

Vidmar, N. Testimony: *Medical Malpractice Litigation and Tort Reform: The Tort System and the Missing Discussion of Negligently Injured Patients.* Before the Maryland Senate Special Commission on Medical Malpractice Liability Insurance Briefing. Annapolis, Maryland, October 27, 2004.

Vidmar, N. Presented: *Medical Malpractice Litigation: Doctors, Lawyers, Patients and Insurers.* Conference on Access to Justice: Can Business Co-exist with the Civil Justice System? Loyola, Law School. Los Angeles, California, October 1-2, 2004.

Vidmar, N. Presented: *Sequestered Science: The Consequences of Undisclosed Knowledge.* Coronado Conference 2, Project on Scientific Knowledge and Public Policy. New York, New York, October 14-15, 2004.

Vidmar, N. Presented: *Medical Malpractice Litigation: An Empirical Rather than Anecdotal Perspective.* Maryland State Bar Association Annual Meeting. Ocean City, Maryland, June 17, 2004.

Vidmar, N. Presented: *Potential Jury Prejudice: A Cross-National Perspective.* Colloquium, School of Psychology, University of New South Wales. Sydney, Australia, May 5, 2004.

Vidmar, N. Presented: *Coffee Spill at McDonalds: The American Civil Jury for Foreigners.* Colloquium, Department of Law, University of New South Wales. Sydney, Australia, May 25, 2004.

Vidmar, Lee and McGwin, Presented: *Seeking the "Invisible" Profile of Medical Malpractice Litigation: Insights from Florida.* Tenth Annual Clifford Symposium: "Starting Over? Redesigning the Medical Malpractice System," DePaul University School of Law. Chicago, Illinois, April 15-16, 2004.

Vidmar, N. Presented: *Experimental Simulations and Tort Reform: Avoidance, Error and Over-reaching in Sunstein et al.'s Punitive Damages (2002).* 2004 Randolph W. Thrower Annual Symposium: The Future of Tort Reform: Reforming the Remedy, Re-balancing the Scales, Emory Law School. Atlanta, Georgia, February 19, 2004.

Vidmar, N. Presented: *Potential Jury Prejudice in Criminal (and Civil) Litigation.* 19th Annual Criminal Law Update Seminar of the South Carolina Bar, Charleston , South Carolina, January 23, 2004.

Vidmar, N. Testimony: *Tort reform and medical malpractice.* North Carolina House Blue Ribbon Task Force on Medical Malpractice. Raleigh, North Carolina, January 7, 2004.

Vidmar, N. Presented. *Research meeting on Implications of Daubert in Practice.* Sponsored by Tellus Institute. Washington, DC November 20, 2003.

Vidmar, N. Participant/commentator, *Conference on Jury Ethics: Juror Conduct and Jury Dynamics.* John Jay College of Criminal Justice. New York, New York, September 12–13, 2003.

Vidmar, N. Panelist, (with Steve Penrod) *Sources of Variability in the Relations between Pre-trial Publicity and Pre-trial Bias.* International Interdisciplinary Conference on Psychology and Law. Edinburgh, Scotland, July 7-12, 2003.

Vidmar, N. Panelist. *Application of Jury Research: A Debate on the Selection of Research Questions and Methods.* International Interdisciplinary Conference on Psychology and Law. Edinburgh, Scotland, July 7-12, 2003.

Vidmar, N. Presented: *Medical Malpractice Litigation in North Carolina.* North Carolina Senate Select Committee on Insurance and Civil Justice. Raleigh, North Carolina, May 13, 2003.

Vidmar, N. Expert Evidence: *The Adversary System and the Jury.* The Coronado Conference on Scientific Evidence and Public Policy. San Diego, California, March 13-14, 2003.

Vidmar and Brown, Presented: *Tort Reform and the Medical Malpractice Crisis in Mississippi: Diagnosing the Disease and Prescribing a Remedy.* Symposium on Tort Reform, Mississippi College of Law. Jackson, Mississippi, November 15, 2002.

Vidmar, N. Presented: *Medical Malpractice and the Tort System.* Governor's Select Task Force on Healthcare Professional Liability Insurance, University of Miami Medical Center. Miami, Florida. November 4, 2002.

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Vidmar, N. Panelist: *Something New Under the Sun: Innovations in Civil Jury Trials.* Annual Meeting of the American Bar Association. Washington, DC August 11, 2002.

Vidmar, N. Organizer/Panelist: *Studying Real Juries – The Arizona Civil Jury Videotaping Project.* Annual Law and Society Association Meetings. Vancouver, BC, Canada, May 30-June 1, 2002.

Vidmar, N. Organizer/Panelist: *Jury Trials in Inuit and Other Aboriginal Communities: Conversations with a Canadian Judge.* Annual Law and Society Association Meetings. Vancouver, BC, Canada, May 30-Junel 2002.

Vidmar, N. Organizer/Panelist: *The Arizona Jury Project.* Presented at the American Psychology and Law Society Bi-Annual Meeting. Austin, Texas, March 9, 2002.

Vidmar, N. Panelist: *Symposium on the Criminal Jury.* St. Louis University School of Law. St. Louis, Missouri, February 8, 2002.

Vidmar, N. Participant: *Juries, Judges and Civil Justice.* Roscoe Pound Institute's 2001 Forum for State Court Judges. Montreal, QC, Canada, July 14, 2001.

Vidmar, N. Presented: *Lay Participation in the Administration of Justice in the Commonwealth of Nations.* Law and Society Association Meetings. Budapest, Hungary, July 5, 2001.

Vidmar, N. Keynote Speaker: *Pre-trial and Mid-trial Prejudice.* American Society of Trial Consultants. Williamsburg, Virginia, June 2, 2001.

Vidmar and Rose, Participants: *Punitive Damages: In Terrorrum and In Reality.* Conference: Reforming Punitive Damages. Harvard Law School. Cambridge, Massachusetts, March 13, 2001.

Diamond and Vidmar, Participants. *Jury Room Ruminations on Missing Evidence.* Conference on New Perspectives on Evidence. University of Virginia School of Law. Charlottesville, Virginia, February 23-24, 2001.

Vidmar, N. Lecture: *World Jury Systems.* Jury Summit 2001 conference sponsored by New York State Unified Court System and National Center for State Courts, New York, New York, January 31-February 3, 2001.

Vidmar, N. Presentation: *Problems of Jury Bias, Jury Selection, Jury Competence: A Cross-National Perspective.* New Zealand Ministry of Justice. Wellington, New Zealand, November 22, 2000.

Vidmar, N. Presentation: *Problems of Jury Bias, Jury Selection, Jury Competence: A Cross-National Perspective.* Victoria University of Wellington. Wellington, New Zealand, November 21, 2000.

Vidmar, N. Presentation: *Problems of Jury Bias, Jury Selection, Jury Competence: A Cross-National Perspective.* University of Auckland School of Law and New Zealand Legal Research Foundation. Auckland, New Zealand, November 7, 2000.

Vidmar and Diamond, Participants: *Juries and Expert Evidence.* The Jury in the Twenty-first Century: An Interdisciplinary Conference. Brooklyn Law School. Brooklyn, New York, October 6, 2000.

Vidmar, N. Participant: *Assessing Civil Jury Reforms in Arizona.* Annual Conference of Chief Justices of State Supreme Courts and State Supreme Court Administrators. Rapid City, South Dakota, July 31, 2000.

Vidmar, N. Participant: *Performance of the American Civil Jury.* Bench Bar Conference of the Supreme Court of Delaware. Wilmington, Delaware, June 7, 2000.

Vidmar, N. and Mary Rose. Participants: *Product Liability Awards and Post-Verdict Adjustment of Those Awards.* Law and Society Association, Miami Beach, Florida, May 28, 2000.

Joseph Sanders, Shari Diamond and Neil Vidmar, Participants: *Trial Lawyers' Perceptions of Science.* Law and Society Association. Miami Beach, Florida, May 28, 2000.

Vidmar, N. Presented: *Judging Social Science.* Judging Science Program, Duke University. Durham, North Carolina, May 25, 2000.

Vidmar and Diamond, Presented: *Preliminary findings of the Pima County civil jury project,* Continuing Legal Education Course, Tucson, Arizona, April 24, 2000.

Vidmar, N. Presented: *The "Scandalized" American jury.* Grant Sawyer Center for Justice Studies. Reno, Nevada, April 20, 2000.

Vidmar, N. Presented: *Jury systems around the world: a comparative perspective.* Grant Sawyer Center for Justice Studies, Reno, Nevada, April 20, 2000.

Vidmar, N. Presented: *Procedural Justice and Pro Se Claimants in Dalkon Shield Trust Resolution Hearings.*

Vidmar, N. Presented: *Retribution in Law and Life.* Colloquium, University of California Law School. Los Angeles, California, December 3, 1999.

Vidmar, N. Instructor: *The Performance and functioning of juries in medical malpractice cases.* ALI and ABA Course: Litigating Medical Malpractice Claims. San Francisco, California, November 11-13, 1999.

Vidmar, N. Lecture: *Evaluating scientific expert evidence.* Invited lecture, Supreme Court of British Columbia Education Seminar. Vancouver, BC Canada, November 5, 1999. Also posted on the Judicial Affairs Information Network (JAIN) and Provincial Judges Net (PJPNet)].

Vidmar, N. Presented: *Witnesses in Adversary versus Inquisitorial modes of criminal procedure.* International Conference on Psychology and Law. Dublin, Ireland, July 6-9, 1999.

Vidmar, N. Panel Chair: *Designating evidence as science, technical or specialized knowledge.* International Conference on Psychology and Law. Dublin, Ireland, July 6-9, 1999.

Vidmar, N. Presented: *Civil jury verdicts v. judgments and other post-verdict adjustments.* International Conference on Psychology and Law. Dublin, Ireland July 6-9, 1999.

Vidmar, N. Presented: *The Canadian Jury System: Attempting to Balance Conflicting Goals and Seek Legitimacy in a Complicated World.* Lay Participation in the Criminal Trial in the 21st Century Conference, International Institute of Higher Studies in Criminal Sciences. Siricusa, Italy, May 26-29, 1999.

Vidmar, N. Presented: *Expert Evidence and the Jury: An Overview.* National Conference on Science and Law, Sponsored by National Institute of Justice and other institutions. San Diego, California, April 15-16, 1999.

Vidmar, N. Lecture: *Roberta Williams Lecture.* Psychology and Law Program. University of Nebraska. Lincoln, Nebraska, March 8, 1999.

Vidmar, N. Presented: *Pretrial Prejudice: A Comparative Perspective on Common Law Jury Systems.* School of Law, University of Nebraska. Lincoln, Nebraska, March 8, 1999.

Vidmar, N. Panelist: *Research Examining Scientific Evidence: Daubert and Beyond.* Annual Meeting, Law and Society Association. Aspen, Colorado, June 4-7, 1998.

Vidmar, N. Panelist: *Lay Participation in Courts.* Annual Meeting, Law and Society Association. Aspen, Colorado, June 4-7, 1998.

Vidmar, N. Workshop Participant: *Teaching Judges About Science.* Planning Conference, National Judicial College. Reno, Nevada. April 7-8, 1998.

Vidmar, N. Presented: *The Performance of the American Civil Jury: An Empirical Perspective.* Courts on Trial Conference, University of Arizona College of Law. Tucson, Arizona, April 17-18, 1998.

Vidmar, Gross and Rose, Presented: *Jury Awards in Medical Malpractice: A profile of Awards, Proportions for General Damages, and Post-Verdict Adjustments.* Fourth Annual Clifford Symposium on Tort Law and Public Policy, DePaul University College of Law. Chicago, Illinois, April 3-4, 1998.

Vidmar, N. Presented: *Peremptory Challenges.* Jury Reform: Making Juries Work Symposium, University of Michigan Journal of Law Reform. Ann Arbor, Michigan, March 20-21, 1998.

Vidmar, N. Presented: *Retribution, Revenge and Aggression.* Annual Meeting of the Law and Society Association. St. Louis, Missouri, May 29, 1997.

Vidmar, N. *Gaps, Maps, Socio-legal Scholarship and the Tort Reform Debate: Medical Malpractice Litigation.* Social Science, Legal Scholarship and the Law: A Symposium in Honor of Stanton Wheeler, Yale Law School. New Haven, Connecticut, April 11-12, 1997.

Vidmar, N. Response to keynote address and panelist: *Arbiters or Arbitrary? Redefining the Role of the Jury.* Cornell Journal of Law and Public Policy Symposium, Cornell Law School. Ithaca, New York, March 7-8, 1997.

Vidmar, N. Presented: *Medical malpractice, frivolous litigation, jury verdicts, and settlement.* Georgetown University Law Center. Washington, DC, February 5, 1997.

Vidmar, N. Presented: *Empirical research on the Jury.* Improving Jury Selection and Juror Comprehension Workshop, Co-sponsored by the Federal Judicial Center and the NYU Institute of Judicial Administration. New York University School of Law. New York, New York, December 11-13, 1996.

Vidmar, N. Presented: *A comparative perspective on the Canadian criminal jury.* Law and Society Association Annual Meeting. Glasgow, Scotland, July 13, 1996.

Vidmar, N. Presented: *Claims about medical malpractice in Illinois' tort reform amendments (1995): a reality check.* Law and Society Association Annual Meeting. Glasgow, Scotland, July 11, 1996.

Vidmar, N. Presented: *Generic prejudice and the presumption of guilt in sex abuse trials: some data from Canada.* Law and Society Association Annual Meeting. Glasgow, Scotland, July 10, 1996.

Vidmar, N. Presented: *Understanding Social Science Evidence.* Nova Scotia Judicial Education Seminar of the National Judicial Institute. Halifax, NS, Canada, June 6, 1996.

Vidmar, N. Presented: *Survey Evidence.* Judging Science Workshop, Duke Law School. Durham, North Carolina, May 24, 1996.

Vidmar, N. Presented: *Survey Evidence.* Judging Science Conference, Texas Center for the State Judiciary. Dallas, Texas, May 16, 1996.

Vidmar, N. Moderator/Participant: *Planning meeting on terrorism, hate crime, and anti-governmental violence.* Committee on Law and Justice: National Academy of Sciences and National Research Council. Washington, DC, March 20, 1996.

Vidmar, N. Presented: *Symposium on Empirical Research on the Tort System.* National Press Club; at U.S. Capitol briefing of legislative aids. Washington, DC, March 12, 1996.

Vidmar, N. Participant: *Forum: Juries, Justice and the Media - After O. J.* Annenberg Washington Program. Washington, DC, January 23, 1996.

Vidmar, N. Presented: *Empirical Research on Juries: A Very Critical Perspective.* "The Role of the Jury in a Democratic Society Conference, Georgetown University Law Center. Washington, DC, October 28, 1995.

Vidmar, N. Presented: *Medical Malpractice Litigation,"* Conference on Consumers in the Civil Justice System, Suffolk University Law School. Boston, Massachusetts, October 20, 1995.

Vidmar, N. Participant: *Planning Conference on Scientific Experts.* Duke University, Private Adjudication Center. Durham, North Carolina, September 15-16, 1995.

Vidmar, N. Presented: *Six versus Twelve and All versus Some: Considerations in Changes to The Jury System.* Commission for the Future of Justice and the Courts in North Carolina, Pinehurst, North Carolina, September 14, 1995.

Vidmar, N. Faculty Presentation: *Judging Psychological Predictions.* The Intensive Study Program, 1995 of the National Judicial Institute. Cornwall, ON, Canada, May 9, 1995.

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Vidmar, N. Testimony: *Common Product and Legal Reform Act of 1995.* Hearing on the Costs of the Legal System, Subcommittee on Administrative Oversight and the Courts of the Committee of the Judiciary, United States Senate. Washington, DC, May 2, 1995.

Vidmar, N. Presented: *Medical Malpractice and The American Jury.* Colloquium, DePaul University School of Law. Chicago, Illinois, March 15, 1995.

Vidmar, N. Panelist: *Jury Selection in the Post-Parks era.* Criminal Lawyers Association of Ontario, Canada. Toronto, ON, Canada, November11-13, 1994.

Vidmar, N. Panelist: *Law, State and Society in India.* Symposium, North Carolina State University. Raleigh, North Carolina, October 29-30, 1994.

Vidmar, N. Participant: *Medical Malpractice Juries and the Tort Reform Debate.* Colloquium, Department of Psychology and the Woodrow Wilson School of Public and International Affairs, Princeton University. Princeton, New Jersey, September 16, 1994.

Vidmar and Landau, Presented: *How do juries and legal professionals treat corporate and individual defendants?* Law and Society Association. Phoenix, Arizona, June 15-19, 1994.

Vidmar, N. Panelist: *Gender, Voice and Legal Consciousness.* Law and Society Association. Phoenix Arizona, June 15-19. 1994.

Vidmar, N. Lecturer: *Judging Psychological Predictions.* National Judicial Institute, Canada: Intensive Study Program. Cornwall, ON, Canada, May 9, 1994.

Vidmar, N. Panelist: *Cross-examining the Sex Abuse Expert.* Criminal Lawyers Association, Ontario. Toronto, ON, Canada, April 9, 1994.

Vidmar, N. Organizer and Presented: *Are They Competent? New Research on Major Issues Involving Contemporary Criminal and Civil Juries.* American Psychology and Law Association Symposium. Santa Fe, New Mexico, March 10-12, 1994.

Vidmar, N. Panelist: *The Impact of Science and Technology on the Courts.* Emory University Law School. Atlanta, Georgia, February 24, 1994.

Vidmar, N. Panelist: *Human Memory and Sex Abuse Cases: The Misuse and Abuse of Science.* Criminal Lawyers Associations Conference. Toronto, ON, Canada, November 5-7, 1993.

Vidmar, N. Presented: *How Many Words for a Camel? A Commentary on Judicial Evaluation of Social Science Evidence.* Canadian Institute for the Administration of Justice Conference: Filtering and Analyzing Evidence in an Age of Diversity. Vancouver, ON, Canada, October 13-16, 1993.

Vidmar, N. Participant: *Broadening the Tort Liability Debate: Toward a Research Agenda.* Conference sponsored by NSF and Rand Corporation: Santa Monica, California, October 10-12, 1993.

Vidmar, N. Presented: *Juries and The "Deep Pockets" Hypothesis in Medical Malpractice.* Annual Meeting of the Law and Society Association. Chicago, Illinois May 26-30, 1993.

Fischer, Vidmar, and Ellis, Presented: *The Culture of Battering and the Role of Mediation in Domestic Violence Cases.* Annual Meeting of the Law and Society Association. Chicago, Illinois, May 26-30, 1993.

Vidmar, N. Faculty Presentation: *Juries and Alternative Dispute Resolution in Medical Malpractice.* Fourth Annual Risk Management Symposium, East Carolina School of Medicine. Greenville, North Carolina, March 17, 1993.

Vidmar, N. Round Table Participant: *The Courtroom and Public Culture,* Duke University Department of History. Durham, North Carolina, November 13-14, 1992.

Vidmar, N. Lecturer: *Juries and Medical Negligence.* University of North Carolina School of Law. Chapel Hill, North Carolina, November 12, 1992.

Vidmar, N., Bogart, W.A. and Kritzer, H. Presented: *Complaining and Compensation Seeking in Three Modern Cultures.* International Congress of Psychology. Brussels, Belgium, July 20, 1992.

Vidmar, N. Presented: *Procedural Justice and Alternative Dispute Resolution.* Conference on Procedural Justice, International Institute for the Sociology of Law. Onati, Spain, June 8-11, 1992.

Vidmar, N. Round Table Discussion Participant: *Methodological Approaches to Jury Research.* Law and Society Association. Philadelphia, Pennsylvania, May 30, 1992.

Vidmar, N., Rice, J. and Ellis, R. Presented: *Jury Determined Settlements and Alternative Dispute Resolution.* Law and Society Association Meeting. Philadelphia, Pennsylvania, May 29, 1992.

Vidmar, N. Faculty Member: Second Annual Conference on Resolving Commercial Disputes Without Trial, School of Law, University of Texas at Austin. Houston, Texas, March 28-29, 1992.

Vidmar, N. Presented: *Medical malpractice litigation: Jury awards for non-economic damages.* American Psychology-Law Society Biennial Meeting. San Diego, California, March 1992.

Ogloff, J.R. P., Vidmar, N. and Green, J.D. Presented: *The impact of pretrial publicity on jurors: a study to compare the relative effect of print and video pretrial publicity.* American Psychology-Law Society Biennial Meeting. San Diego, California, March 1992.

Kritzer, H., Vidmar, N., Bogart, W. and Zahorik, K. Presented: *Legal Mobilization in Canada and the United States: Consumer Problems in North America.* Presented at the Midwest Political Science Association. Chicago, Illinois, April 18-20, 1991.

Rice, J. A. and Vidmar, N. Presented: *Assessing Non-economic Damages: Lawyers versus Laypersons.* Annual Law and Society Meeting. Amsterdam, Netherlands, June 26-29, 1991.

Kritzer, A., Vidmar, N. and Bogart, W. Presented: *Context, Context, Context: Claiming Behavior in Two Countries.* Annual Law and Society Meeting. Amsterdam, Netherlands, June 26-29, 1991.

Vidmar, N. Participant: *Towards a Research Agenda for the 1990's and Beyond.* Conference on Civil Discovery, Federal Judicial Center. Washington, DC, September 20, 1991.

Kritzer, H., Vidmar, N. and Bogart, W.A. Presented: *The genesis of discrimination litigation: Comparing Canada and the United States.* Southern Political Science Association. Atlanta, Georgia, November 8-10, 1990.

Vidmar, N. Panelist: *The Use of Psychology in the Teaching of Trial Advocacy.* ABA Conference on Trial Advocacy Training in the '90s. Chicago, Illinois, October 26-27, 1990.

Bogart, W.A. and Vidmar, N. Presented: *Independent Paralegals in Ontario.* Annual Law and Society Meeting. Berkeley, California, June 1990.

Kritzer, H., Bogart, W.A. and Vidmar, N. Presented: *The Aftermath of Injury: Compensation Seeking in Canada and the United States.* Annual Law and Society Association Meeting. Berkeley, California, June 1990.

Vidmar, N. Panelist: *Empirical Research on Juries.* Ad Hoc Committee of the National Science Foundation. Washington, DC, May 12, 1990.

Vidmar, N. Panelist: *Juries and Pre-Trial Prejudices.* Northwestern University, Annenberg Washington Conference on Juries and Prejudice. Washington, DC May 11, 1990.

Vidmar, N. Presented: *An Update on the Jury.* Judicial Administration Program, University of Nevada-Reno. Reno, Nevada, January 18, 1990.

Vidmar, N. Presented: *An Empirical Profile of Punitive Damages in Ontario.* International Symposium on Remedies, University of Windsor Law School. Windsor, ON, Canada, October 1989.

Vidmar, N. Presented: *The Role of the Jury in Medical Malpractice Cases in North Carolina.* Conference on Medical Malpractice, Duke University. Durham, North Carolina, September 15, 1989.

Vidmar, N. and Donnelly, L. Presented: *Implementation of the North Carolina Pre-Trial Management Statute.* Conference on Medical Malpractice, Duke University. Durham, North Carolina, September 15, 1989.

Metzloff, T. and Vidmar, N. Presented: *The Dynamics of Litigation Settlement in Medical Malpractice.* Annual Law and Society Meeting. Madison, Wisconsin, June 9, 1989.

Vidmar, N. Presented: *Claim Making and Outcomes in Ontario.* Annual Law and Society Meeting. Madison, Wisconsin, June 9, 1989.

Vidmar, N. Presented: *An Empirical Perspective on Procedure in Medical Malpractice Cases.* Kellog Center for Dispute Resolution and Program on Social Science and Law, Northwestern University. Evanston, Illinois, May 5, 1989.

Vidmar, N. Presented: *Integrating Social Science.* Transforming the Law School Curriculum Conference, Osgoode Hall Law School. Toronto, ON, Canada, April 6, 1989.

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Vidmar, N. Panelist: *Can They Prosper in Law School?* Can Social Scientists Survive in Law School? Panel, Social Science and Law Section, Association of American Law Schools. New Orleans, Louisiana, January 7-9, 1989.

Vidmar, N. and Bogart, W. A. Presented: *Access to Justice in Canada.* Institute for Legal Studies, University of Wisconsin. Madison, Wisconsin, December 2, 1988.

Bogart, W.A. and Vidmar, N. Presented: *Problems and Experience with the Ontario Civil Justice System.* Ontario Ministry of the Attorney General, Conference on Access to Justice, Toronto, June 20-22, 1988.

Vidmar, N. Invited Speaker: *Jury Decision-making.* Cleveland-Marshall College of Law. Cleveland, Ohio, November 2, 1987.

Vidmar, N. Conference Consultant: *Legal Education and Work in a Changing Society.* University of Windsor Law School. Windsor, ON, Canada, September 9, 1987.

Schuller, R. and Vidmar, N. Presented: *Determinants of Procedural Choice.* Annual Meeting, Canadian Psychological Association. Vancouver, BC, Canada June 18-21, 1987.

Vidmar, N. and Schuller, R. Presented: *Individual differences and the pursuit of legal rights: A preliminary inquiry.* Law and Society Association Meeting. Washington, DC, June 11, 1987.

Vidmar, N. Presented: *On libel and civil juries.* Law and Society Association Meeting, June 10-14, 1987.

Vidmar, N. Presented: *Conceptualizing the data problem in medical malpractice cases.* Developing Information Bases for Medical Malpractice Claims Studies Conference, Duke University. Durham, North Carolina, May 29, 1987.

Vidmar, N. Presented: *Understanding dispute resolution: An empirical approach to problems of law.* Theoria Seminar of Windsor Law School, Windsor, ON, Canada, April, 1987.

Vidmar, N. Presentation: *Social science and juries in Canada.* Canadian Criminal Lawyers' Association, Toronto, ON, Canada, November 1986.

Vidmar, N. Presented: *A critique of "scientific jury selection."* Litigation Section of the American Bar Association, October, 1986.

Vidmar, N. Presented: *Claims Consciousness: Individual Differences in the Pursuit of Justice.* Law and Society Association Meeting. Chicago, Illinois, May 28-June 1, 1986.

Vidmar, N. Presented: *Jury Experts: A Critical Perspective.* Association of American Law Schools. New Orleans, Louisiana, January 6, 1986.

Vidmar, N. Invited Panelist: *Future directions of procedural justice research.* Procedural Justice Symposium, Law and Society Association. San Diego, California, June 6, 1985.

Vidmar, N. and Samuels, J. Presented: *Unfair trade practices legislation: A study of compliance, administrative response, and impact.* Law and Society Association, San Diego, California, June 6, 1985.

Vidmar, N. Presented: *An empirical map of minor dispute behavior in Canada.* Canadian Law and Society Association, Montreal, QC, Canada, May 31, 1985.

Samuels, J. and Vidmar, N. Presented: *Unfair trade practices legislation: A study of impact.* Canadian Law and Society Association, Montreal, QC, Canada, May 31, 1985.

Vidmar, N. Presented: *Mediation of small claims disputes.* Conference on Negotiation in Organizations, Duke University. Durham, North Carolina, March 21, 1985.

Vidmar, N. Presented: *Dispute resolution in a small claims court.* University of Waterloo. Waterloo, ON, Canada, November 1984.

Saunders, D. and Vidmar, N. Presented: *Liability insurance, judicial admonitions, and the verdicts of mock juries.* Canadian Psychological Association Meeting. Ottawa, ON, Canada, June 1, 1984.

Vidmar, N. Presented: *Assessing household problems, claims and disputes: A Canadian survey.* Law and Society Association Meeting. Boston, Massachusetts, June 1984.

Vidmar, N. Presented: *Some myths about the small claims court.* Department of Psychology, York University. Toronto, ON, Canada, April 1984.

Vidmar, N. Presented: *The expert witness in court.* Symposium on the Expert Witness, London Psychiatric Hospital. London, ON, Canada November 1983.

Vidmar, N. Invited Lecturer: *Myth and reality about "everyman's court": An empirical investigation of the small claims process.* American Psychology-Law Society. Chicago, Illinois, October 6, 1983.

Vidmar, N. Presented: *Recent developments in our understanding of the disputing process.* Psychology-Law Research Center, St. Louis University. St. Louis, Missouri, June 1983.

Vidmar, N. Presented: *Consumers avoid it; defendants lose--and other myths about the small claims court.* Law and Society Association Meeting. Denver, Colorado, June 2-5, 1983.

Vidmar, N. Presented: *Jury selection: Two Canadian cases.* Department of Psychology, University of Windsor, Windsor, ON, Canada, March 1983.

Vidmar, N. Presented: *Jury selection: Two Canadian cases.* Institute for Criminology, University of Toronto. Toronto, ON, Canada, February 1, 1983.

Vidmar, N. Presented: *Jury selection: Two Canadian cases.* Department of Psychology, University of Guelph. Guelph, ON, Canada, January 1983.

Vidmar, N. and Short, J. Presented: *Changes in disputant motives and perceptions in a Canadian small claims court.* International Congress on Psychology and Law. Swansea, Wales, July 19-23, 1982.

Vidmar, N. and Short, J. Presented: *Social psychological aspects of the small claims resolution.* International Conference on Psychology and Law, Swansea, Wales, July 1982.

Vidmar, N. Presented: *Dispute resolution in a small claims court.* Law and Society Association. Toronto, ON, Canada, June 1982.

Vidmar, N. Presented: *Alternatives to judges: Referees in a small claims court.* Canadian Psychological Association Symposium. Montreal, QC, Canada, June 11, 1982.

Vidmar, N. Presented: *A research perspective on evaluation of community mediation.* Institute of Public Affairs, Dalhousie University. Halifax, NS, Canada, June 10, 1982.

Vidmar, N. Presented: *A limited defense of simulation research.* American Psychology-Law Association Meeting. Boston, Massachusetts, October 16, 1981.

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Saunders, D., Hewitt, E. and Vidmar, N. Presented: *Discredited eyewitness testimony, judicial instructions, and juror decisions.* Canadian Psychological Association. Toronto, ON, Canada, June 1981.

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Sheppard, B. and Vidmar, N. Presented: *A taxonomy of procedure.* Annual Law and Psychology Conference, Centre for Socio-legal Studies, Oxford University. Oxford, England, April 1981.

Vidmar, N. Presented: *Legal applications of survey research in the U.S. and Canada.* Law Seminar, University of Osnabruck. Osnabruck, West Germany, July 11, 1980.

Vidmar, N. and Miller, D. T. Presenters: *Social psychological motives underlying punishment reactions.* XXII International Congress of Psychology. Leipzig, East Germany, July 9, 1980.

Vidmar, N. Presented: *Social psychological considerations in the development and resolution of small claims disputes.* SSRC Law and Psychology Seminar, Oxford University. Oxford, England, March 25-26, 1980.

Vidmar, N. Presented: *The transformation of disputes in a small claims court.* Law and Society Association. May 11, 1979.

Vidmar, N. Presented: *Creating access: Alternative dispute forums, conflict, and justice.* American Psychological Association Symposium "How the law affects us: Entrapping problems and liberating possibilities." Toronto, ON, Canada, August 28, 1978.

Vidmar, N. Presented: *Effects of adversary versus non-adversary investigative procedures on testimonial evidence.* Law and Society Association, Minneapolis, Minnesota, May 19, 1978.

Vidmar, N. Chair: *The role of psychology in the criminal justice system.* Law and Society Association Symposium. Minneapolis, Minnesota, May 18, 1978.

Vidmar, N. Presented: *Outcome, offense type, and retribution as factors in punishment reactions.* Eastern Psychological Association, Washington, DC, April 30, 1978.

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Vidmar, N. Testimony: *Medical Malpractice Litigation.* Field Hearing of Energy and Commerce Committee: Oversight and Investigation Subcommittee of U.S. House of Representatives. Langhorne Pennsylvania, February 10, 2003.

Sarat, A. and Vidmar, N. Presented: *Knowledge, retribution, and death penalty attitudes: a survey experiment.* Eastern Psychological Association. New York, New York, April 22-24, 1976.

Stirrett, K. and Vidmar, N. Presented: *Authoritarianism and recall of evidence in formal sanctioning settings.* Eastern Psychological Association Convention. Philadelphia, Pennsylvania, April 18, 1974.

Vidmar, N. Presented: *Retribution and utility as motives in Canadian attitudes toward the death penalty.* Canadian Psychological Association Convention, Victoria, BC, Canada, June 10, 1973.

Vidmar, N. and Crinklaw, L. D. Presented: *Retribution and utility as motives in sanctioning behavior.* Mid-Western Psychological Association Convention. Chicago, Illinois, May 10-12, 1973.

Vidmar, N. and Rokeach, M. Presented: *Archie Bunker's bigotry: perceptions in the eye of the beholder.* Eastern Psychological Association Convention. Washington, DC, May 3-5, 1973.

Vidmar, N. Presented: *Effects of decision alternatives on the verdicts and social perceptions of simulated jurors.* Eastern Psychological Association Convention. New York, New York, April 1972.

Vidmar, N. Presented: *Effects of group discussion on category width judgments.* Eastern Psychological Convention. Boston, Massachusetts, April 1972.

Vidmar, N. and Crinklaw, L. D. Presented: *Attributing responsibility for an accident: some integrative attempts.* Conference on Attribution of Responsibility, William and Mary College. Williamsburg, Virginia, July 1971.

Vidmar, N. Symposium Paper: *Student reactions to the 1970 Canadian political crisis.* Canadian Psychological Association Convention. St. John's, NL, Canada, June 1971.

Crinklaw, L. D. and Vidmar, N. Presented: *Attributing responsibility for an accident: More empirical confusion but methodological insights.* Mid-Western Psychological Association Convention. Detroit, Michigan, May 1971.

Hourany, L., Jackson, D. and Vidmar, N. Presented: *A four-dimensional interpretation of risk taking.* Mid-Western Psychological Association Convention. Detroit, Michigan, May 1971.

Vidmar, N. Presented: *Group induced shifts in simulated jury decisions.* MidWestern Psychological Association. Cleveland, Ohio, 1970.

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Ferguson, D. A. and Vidmar, N. Presented: *Familiarization-induced risky and cautious shifts: a replication of sorts.* Midwestern Psychological Association Convention. Cincinnati, Ohio, May 1970.

Vidmar, N. and Burdeny, T. C. Presented: *Effects of item type and group size in the "group shift" effect.* Mid-western Psychological Association Convention. Cincinnati, Ohio, May 1970.

Ferguson, D. A. and Vidmar, N. Presented: *Effects of group discussion on estimates of culturally appropriate risk levels.* Eastern Psychological Association Convention, Atlanta City, New Jersey, April 1970.

Vidmar, N. Presented: *Group composition and risk taking.* Eastern Psychological Association Convention, New York, April, 1968.

Vidmar, N. and Hackman, J. R. Presented: *Effects of group size, task type and subject population on group satisfaction.* Canadian Psychological Association Convention. Calgary, AB, Canada, June 1968.

Vidmar, N. and McGrath, J. E. Presented: *Role conflict and leadership in negotiation and other decision-making groups.* Midwestern Psychological Association Convention. Chicago, Illinois, May 1967.

McGrath, J. E. and Vidmar, N. Presented: *Role assignment and conflict in decision-making groups: partial test of a model of negotiation.* Midwestern Psychological Association Convention. Chicago, Illinois, May 1966.

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Kritzer, H., Bogart, W.A. and Vidmar, N. *The Aftermath of Injury: Compensation Seeking in Canada and the United States.* Institute of Legal Studies, University of Wisconsin Law School, Madison, Wisconsin (1990).

Vidmar, N. and Lawrence, C. *The Impact of Statistical Evidence on the Legal System.* U.S. National Research Council of the National Academy of Sciences (1985).

Vidmar, N. *Privacy and Two-way Cable Television: A Study of Canadian Public Opinion.* Ontario Ministry of Transportation and Communication (1983).

Vidmar, N. and Short, J. A. *The Effects of Criminal Justice Issues on Voting Behavior.* Federal Ministry of the Solicitor General of Canada (1982).

Vidmar, N. *Implementing the information/education campaign on firearms control: A literature review.* Ministry of the Solicitor General of Canada (1978).

Crinklaw, L. and Vidmar, N. *Inferential Sets, Locus of Control and Attribution of Responsibility for an Accident.* University of Western Ontario Research Bulletin #246 (1972).

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Crinklaw, L. and Vidmar, N. *Attribution of Responsibility for an Accident.* University of Western Ontario Research Bulletin #186 (1971).

McGrath, J. E. Vidmar, N. and Weidemann, S. *Social and Psychological Factors in Human Stress.* Program Report: Phase I. AFOSR Conference on Human Stress, Monticello, Illinois (1967).

Vidmar, N. *Perceptions of Patient Behavior and Effects of Environmental Change.* .Report #601 Danville, Illinois: Danville Veterans Administration Hospital (1969).

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DUKE LAW

NEIL VIDMAR, PH.D.
RUSSELL M. ROBINSON, II, PROFESSOR OF LAW AND
PROFESSOR OF PSYCHOLOGY
DUKE UNIVERSITY SCHOOL OF LAW
SCIENCE DRIVE AND TOWERVIEW ROAD
BOX 90360 • DURHAM, NC 27708-0360
919-613-7090 • FACSIMILE 919-613-7231
VIDMAR@LAW.DUKE.EDU

July 23, 2014

Lindsey S. Vann
Fellowship Attorney
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201

Re: Stanko Case: Estimate of hours and expenses for research and testimony re trial and pretrial prejudice

Dear Ms.Vann:

I estimate that reviewing the print, television, radio, and internet coverage of the *Stanko* case, analyzing that coverage in the context of my previous professional experience and testimony in similar criminal cases; and preparing for testimony at trial will involve approximately 25 hours. Assuming that testimony at the hearing will involve part of a day plus my travel time (by automobile from Durham, NC and return) will involve another 8 hours. Thus total professional time will consume 33 hours.

Recently, my hourly fee for similar research and testimony has been $350.00/hour. Hence the total estimated cost will be 33 hours @$350/hr = $11,550.

Finally, at your request, I attach copies of accounts in several previous cases in which I have testified or otherwise consulted re jury matters. In the most recent case in Kentucky my fee was $350/hr. However, as some of the attachments document I have sometimes charged substantially more per hour.

Sincerely,

Neil Vidmar

Dawn S. Blalock
Comm. Exp. 9/24/2015

DAWN S. BLALOCK
NOTARY
***
PUBLIC
PERSON COUNTY, NC

4893

VIDMAR CONSULTANTS

NEIL VIDMAR, PH.D.
4706 TIMBERLY DRIVE
DURHAM, NC 27707

TELEPHONE (919) 489-7729
E-MAIL VIDMAR@LAW.DUKE.EDU

Mitchel T. Denham
Assistant Deputy Attorney General
Office of the Attorney General
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601

Regarding: My Account in *Commonwealth Kentucky v Purdue Pharma*

Dear Mitchel:
My account in the above matter is as follows:

I spent a total of 28.7 hours researching the above case, consulting with you, preparing for testimony and testifying as outlined in the attached time sheet.

Hence my fee for this work is 28.7 hrs. x $350/hr. =

$10,045.00

In addition I incurred the following expenses:

a. Sept 12, 2013: Personal automobile
Durham, NC to Pikeville, KY
332 mi (10:00am-3:30 pm) @ $0.47/mi) = $156.04

b. Sept 13, 2013 Personal automobile
Pikeville, KY to Durham , NC
333 mi (5:40 pm -12:50 pm at $0.47 /mile = $156.51

Total mileage account $ 312.55

c. Meals:
a. Dinner, Pikeville, Sept 12, 2013: $15.00
$30.35
b. Dinner. Abingdon, NC, Sept 1, 2013: $15.00

Total meals account $ 30.00

My total account, therefore, is **$10,387.55**

Sincerely,

Neil Vidmar
SS#: 327-32-2071

Attachment: Time log

VIDMAR CONSULTANTS

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4706 TIMBERLY DRIVE
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E-MAIL VIDMAR@LAW.DUKE.EDU

NOVEMBER 4, 2013

Kevin A. Dunlap
Parker Poe,
100 Dunbar St, Suite 206
Spartanburg, SC 29306

Re: Berry et al v. Lee County Landfill et al.

Dear Mr. Dunlap:

I have attached a time sheet detailing my hours pertaining to the above cases for the month of September 2013. In total I devoted 7.5 hours as documented on the attached time sheet.

Thus my account for the month of September is 7.5 hrs @ $600/hr = $4500.00

Sincerely,

Neil Vidmar

16-Sep	2:00p	2:35p	Kevin Dunlap peremptories	0.6
25-Sep	5:00p	5:41p	Sample of media reports received 9/25	0.7
26-Sep	8:30a	9:14a	KD conf call plus follow-up	0.7
26-Sep	1:32p	2:07p	*research SC counties /cities demogr.*	0.6
27-Sep	8:35a	1:15p	Raleigh Parker Poe re brief	4.8
30-Sep	10:00a	10:09a	phone conf re affidavit	0.1
				Total 7.5hrs

DUKE LAW

NEIL VIDMAR, PH.D.
RUSSELL M. ROBINSON, II, PROFESSOR OF LAW AND
PROFESSOR OF PSYCHOLOGY
DUKE UNIVERSITY SCHOOL OF LAW
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BOX 90360 • DURHAM, NC 27708-0360
919-613-7090 • FACSIMILE 919-613-7231
VIDMAR@LAW.DUKE.EDU

March 11, 2012

Mr. Shand Stephens
DLA Piper LLP (US)
1251 Avenue of the Americas
New York, New York 10020-1104

Re: *Linde v Arab Bank*: Consulting and Testimony

Dear Mr. Stephens:

1. In regard to the above litigation, *Linde v Arab Bank*, I will consult with you and with other members of your defense team in order to develop a public opinion survey regarding potential trial prejudice against defendant Arab Bank. My efforts will also include supervising a content analysis of media coverage of this case in addition to developing and interpreting the survey and writing a report of the findings..
2. The survey will be carried out by EMC Research Inc.
3. You, or persons you assign, will be responsible for the costs of carrying out the survey by EMC and the consultation services of other persons such as Howard Varinsky and Edward Bronson.
4. I will be prepared to testify in Court regarding the findings of the research.
5. My standard fee is $600.00 per hour and is billed on a monthly basis, with a detailed accounting of my time and activities.
6. Any travel or incidental costs will also be billed to you.
7. Upon signing of this agreement you will tender a retainer to Neil Vidmar in the sum of $3000. My SS# is My billing address is

Please sign this agreement and return it to me by standard mail with the retainer check of $3000.00

Sincerely,

Neil Vidmar

Agreed this _____day of _____ 2013

_____
Shand Stephens

VIDMAR CONSULTANTS

NEIL VIDMAR, PH.D.
4706 TIMBERLY DRIVE
DURHAM, NC 27707

TELEPHONE (919) 489-7729
E-MAIL VIDMAR@LAW.DUKE.EDU

NOVEMBER 1, 2010

Michael F. Smith
Eldridge Cooper Steichen &Leach PLLC
110 W 7th St Ste 200
Tulsa OK 74119

Re: Armstrong v. Tyson: Research on pretrial publicity and change of venue: Final Account

Dear Mr. Smith:

In the months of September and October 2010 I devoted 2.5 hours in research and preparing a second affidavit and consulting with you and other regarding the above matter. My work log detailing activities is attached as Appendix A.

Therefore, my final account in this matter is 2.5 hrs @ $600/hr. = **$1500.00**

Please have the check made out to Neil Vidmar c/o Vidmar Consultants at the above address.

My social security number is [redacted]

Sincerely,

Neil Vidmar

DUKE LAW

DUKE UNIVERSITY
SCHOOL OF LAW
BOX 90360
DURHAM, NORTH CAROLINA 27708-0360

NEIL VIDMAR, PH.D.
613-7090
RUSSELL M. ROBINSON II PROFESSOR OF LAW
PROFESSOR OF PSYCHOLOGY

TELEPHONE (919)
TELEFAX (919) 613-7231

E-MAIL:VIDMAR@LAW.DUKE.EDU

May 15, 2002

James J. Brosnahan, Esq.
425 Market Street, 32nd Floor
San Francisco, CA 94105-2482

Re: My April 2002 Account in U.S. v. John Phillip Walker Lindh

Dear Mr. Brosnahan:

During the month of April I devoted 59.3 hours to the Lindh case. My hours and activities are documented on the attached time log.

I am billing for only 40 hours for the month of April. However, this reduction in my billing hours should in no way be interpreted as setting a precedent for future billing in this case.

Thus, my account as of April 30, 2002 is

40 hrs @ $400/hr = **$16,000.00**

The check should be made out to Neil Vidmar. My SS# is [redacted]. My home address is 4706 Timberly Dr., Durham, NC 27707.

Sincerely,

Neil Vidmar

State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

P. O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
Georgetown, South Carolina
Telephone: (843) 545-3030
Facsimile: (843) 545-3282
Email: bculbertsonj@sccourts.org

September 25, 2014

Via U.S. Mail and Email Delivery

PERSONAL & CONFIDENTIAL
Emily C. Paavola, Esquire
Lindsey S. Vann, Esquire
Death Penalty & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201

Email: Emily@deathpenaltyresource.org
Email: Lindsey@deathpenaltyresource.org

RE: *Stephen C. Stanko, #6022 v. State of South Carolina*
Case Number: 2014-CP-26-035

Dear Ms. Paavola and Ms. Vann:

Please find enclosed the original order denying your second *ex parte* motion for expert and investigative fees in the above referenced case. As you can see from the order, I denied your request for a licensed social worker and media expert because the court cannot determine whether or not their services are reasonably necessary until after their investigations are completed. As I understand your argument, the applicant desires funding for a licensed social worker and media expert because the criminal trial counsel failed to use such experts.

Please file the enclosed order under seal with the clerk of court.

With kindest regards, I remain

Very truly yours,

Benjamin H. Culbertson

BHC/bhc
Enclosure (a/s)

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT CASE NUMBER 2014-CP-26-035
Stephen C. Stanko, #6022, Applicant, vs. State of South Carolina, Respondent.	)	***Ex Parte* Order to be Filed Under Seal** **Order Denying Applicant's Second Motion To Authorize Funding For Expert Services**

Applicant, Stephen Stanko ("Stanko"), is an indigent, death-sentenced inmate. He is seeking post-conviction relief ("PCR") from his convictions and sentence. This matter comes before this Court in an *ex parte* proceeding authorized pursuant to S.C. Code Ann. §§ 16-3-26(C) and 17-3-50(B), due to the confidential nature of the matters herein.

Stanko moves this Court to authorize funding for a licensed social worker and a media expert. Stanko does not request a hearing on this motion and the Court decides this motion without a hearing per the Court's scheduling order dated April 29, 2014.

In support of his motion for funding a licensed social worker, Stanko argues that a licensed social worker with capital case experience is needed to investigate "mitigating evidence in Stanko's social and family history that was not presented at trial." However, the only mitigating evidence referenced is a "harsh environment created by Stanko's military father" when Stanko and his siblings were growing up. Stanko argues that his criminal trial counsel were ineffective because they only focused on Stanko's defense that Stanko was a psychopath and did not look more broadly to Stako's life history.

In support of his motion for funding a media expert, Stanko argues that his criminal trial counsel was ineffective for failing to use a media expert in support of Stanko's motion for a change of venue in the criminal trial.

Stanko's basic argument for funding a licensed social worker and media expert is that their services are necessary because none were used during Stanko's criminal trial. Like his prior request for funding a forensic psychologist, the necessity of a licensed social worker and media expert in this PCR action cannot be determined until after they have completed their investigations.

This court finds that the argument presented by Stanko's PCR counsel do not satisfy the "reasonably necessary" requirements of S.C. Code Ann. § 17-3-50(B). Pursuant to S.C. Code Ann. § 17-3-50(B), the court may only authorize funding for investigative, expert or other services after the court finds that such services are reasonably necessary for the applicant's representation. The statute does not authorize funding for services which cannot be deemed reasonably necessary to the applicant's representation until after the services are performed and a beneficial result obtained. In other words, the court cannot authorize funding for expert, investigative or other services simply to determine if the criminal trial counsel "missed something" without anything to support a finding that the "something" existed in this first place. Therefore, Stanko's motion for funding a licensed social worker and media expert in this PCR action should be denied.

NOW, THEREFORE, it is hereby

ORDERED, that the Applicant's Second Motion To Authorize Funding For Expert Services is DENIED; it is further

ORDERED that this Order shall be sealed by the Clerk of Court and/or the Office of Indigent Defense on behalf of the Clerk of Court since this order deals with confidential defense matters. S.C. Code § 16-3-26(C); *State v. Smart*, 278 S.C. 515, 299 S.E.2d 686 (1982).

ANY VIOLATION BY ANY PERSON OF THE CONFIDENTIAL NATURE OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT.

AND IT IS SO ORDERED.

Benjamin H. Culbertson
Presiding Circuit Judge

September 25, 2014
Georgetown, SC

4902

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
Stephen C. Stanko, #6022,	)	
	)	
Applicant,	)	Case No. 2014-CP-26-035
	)	
vs.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

EX PARTE
TO BE FILED UNDER SEAL

APPLICANT'S MOTION TO RECONSIDER DENIAL OF FUNDING FOR EXPERT AND INVESTIGATIVE SERVICES AND REQUEST FOR *EX PARTE* HEARING

Applicant Stephen C. Stanko is an indigent, death-sentenced inmate. He is seeking post-conviction relief from his convictions and sentence. In this motion, Stanko requests that this Court reconsider its previous denials of applicant's requests for funds for investigative and expert services. Stanko additionally requests an *ex parte* hearing in connection with this motion as soon as practicable. Specifically, Stanko asks the Court to reconsider its denial of the following funding requests: (1) $13,000 for the services of a licensed social worker, (2) $15,000 for the services of a forensic psychologist, and (3) $9,000 for the services of a media expert. These funds are necessary to provide Stanko with constitutionally and statutorily adequate resources to pursue his post-conviction relief action. *See, e.g.*, U.S. Const. amends V, VI, VII, XIV; S.C. Const. arts. I, III, XIV; S.C. Code § 17-27-160; *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992); S.C. App. Ct. R. 602.

This motion is *ex parte* as authorized by state law. S.C. Code Ann. §§ 16-3-26(C), 17-27-160(B). Stanko requests that this Court order this motion sealed and not filed in the public record of this proceeding or disclosed in any manner to the State or its attorneys.

Stanko further requests an *ex parte* hearing for oral argument on this motion as permitted by the Court's April 29, 2014 scheduling order. Because an evidentiary hearing is scheduled in this case for March 2, 2015, less than five months from the filing of this motion, Stanko asks this Court to schedule the hearing as soon as practicable. Stanko asks this Court to conduct the hearing ancillary to this motion outside the presence of the solicitor, the attorney general, law enforcement personnel, state and county officials, news media, and the general public and to enter an appropriate order under seal. *Ex Parte Lexington County*, 314 S.C. 220, 442 S.E.2d 589 (1994).

The legal and factual bases for this motion are set forth below.

I. PROCEDURAL HISTORY

Stanko was convicted and sentenced to death by an Horry County jury in connection with the April 8, 2005 murder and armed robbery of Henry Turner.[1] *State v. Stanko*, 402 S.C. 252, 258, 741 S.E.2d 708, 711 (2013). On direct appeal, the Supreme Court of South Carolina affirmed the conviction and sentence. *Id.* Stanko subsequently moved for a stay of execution in order to pursue post-conviction relief. The Supreme Court of South Carolina issued a stay of execution and assigned the post-conviction relief proceedings to this Court. Order, *State v. Stanko*, No. 2010-

[1] Stanko was also convicted of murder and other charges in Georgetown County in connection with the April 7, 2005 murder of Laura Ling and sexual assault of Ms. Ling's teenage daughter. Stanko was sentenced to death for the murder of Laura Ling on August 18, 2006. *See State v. Stanko*, 376 S.C. 571, 658 S.E.2d 94 (2008). The Georgetown County convictions and sentence are currently the subject of a post-conviction relief proceeding in Georgetown County. Undersigned counsel do not represent Stanko in connection with his Georgetown County proceedings.

154746 (S.C. Nov. 7, 2013). This Court appointed undersigned counsel to represent Stanko on February 4, 2014.

On February 21, 2014, this Court entered a Scheduling Order in this post-conviction relief proceeding, scheduling a merits hearing for December of 2014. Scheduling Order (Feb. 21, 2014). The Court subsequently, on April 29, 2014, amended the Scheduling Order to tentatively schedule a merits hearing for February of 2015. Amended Scheduling Order (Apr. 29, 2014). On September 25, 2014, the Court set a date certain for the merits hearing, scheduling the trial in this post-conviction relief proceeding to commence on March 2, 2015 and ordering the discovery be completed by January 31, 2015. Order for Date Certain Trial and Second Amended Scheduling Order (Sept. 25, 2014).

After being appointed, undersigned counsel began diligently reviewing the record and conducting an independent investigation. On April 1, 2014, counsel filed Applicant's First Motion to Authorize Funding for Expert and Investigative Services ("First Funding Motion"). During the two months between their appointment and filing the First Funding Motion, undersigned counsel (1) spent approximately 85 hours, combined, reviewing the records from Stanko's trials, the court exhibits, and trial counsel's files; (2) interviewed the client four times; (3) interviewed the jurors who sat on Stanko's trial; and (4) began investigating by meeting with Stanko's sister and a friend and conducting preliminary interviews with trial counsel and the mitigation investigator for the Georgetown County trial. After conducting this preliminary investigation and recognizing that a hearing then-scheduled for December created an expedited timeline for investigating a post-conviction capital case,[2] undersigned counsel moved for funding to aid in the investigation,

[2] In the First Funding Motion, counsel noted:

> [T]he scheduling order entered in this case is, in counsel's experience, extraordinarily short. Apart from this matter, Ms. Paavola has served as post-

development, and presentation of Stanko's claims. Specifically, the First Funding Motion requested the Court authorize funding of $10,000 for a fact investigator,[3] $15,000 for a mitigation investigator,[4] and $15,000 for the services of a forensic psychologist.[5]

On April 29, 2014, this Court granted funding for the requested mitigation investigator, but denied funding for a fact investigator and a forensic psychologist. The Court denied funds for a fact investigator, finding counsel did not specifically identify new facts that required investigation and or trial testimony that may have been false or misleading. The Court denied funding for a

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> conviction counsel in seven capital post-conviction relief cases in South Carolina and has never previously been to hearing in such a short period of time. In order for counsel to have even a fighting chance of adequately preparing Mr. Stanko's claims for an evidentiary hearing under the current scheduling order, the immediate, competent, and adequately funded assistance of investigators and experts is essential.

First Funding Motion 6-7 (Apr. 1, 2014).

[3] In support of the request for a fact investigator, counsel informed the Court that recently revealed facts suggested the possibility of juror bias and that the state may have presented false or misleading testimony regarding scams Stanko allegedly ran. Counsel, therefore, requested funding for a fact investigator to aid in investigating the issues already identified, identifying other issues for investigation, and presenting Stanko's claims for post-conviction relief.

[4] In support of the request for a mitigation investigator, counsel informed the Court that their preliminary investigation indicated trial counsel prematurely curtailed their mitigation investigation after settling on the theory that Stanko was a psychopath early on in the course of preparation for Stanko's Georgetown County trial and did not hire a mitigation investigator for the Horry County trial. Counsel also indicated that a mitigation investigator was needed to develop a relationship with Stanko's siblings, two of whom live outside of South Carolina and to conduct the record collection, which is complex due to Stanko's father's military service moving the family on numerous occasions.

[5] In support of the request for a forensic psychologist, counsel informed the Court their preliminary investigation revealed that trial counsel's inquiry into Stanko's mental health and life history was inadequate because counsel settled on a theory that Stanko is a psychopath early on in their trial preparation. As a result, trial counsel curtailed the mitigation investigation and failed to direct mental health experts to consider the relationship between Stanko's life history and brain damage and/or mental illness. Counsel, therefore, asserted that the assistance of a forensic psychologist was necessary to assist counsel in developing an understanding of Stanko's life history as it correlates to his mental health and presenting related issues to the Court.

forensic psychologist "without more substantial indications that the Applicant suffers a mental illness other than being a psychopath," because trial counsel presented testimony from seven experts in support of their insanity defense, and because the Court "assume[d] that none of the seven experts testifying on the Applicant's behalf during his criminal trial were of the opinion the Applicant suffered a mental illness other than being a psychopath." Order Authorizing Funding for Expert and Investigative Services (Apr. 29, 2014).

The next week, on May 8, 2014, counsel moved for reconsideration of the Court's denial of funding for the fact investigator and the forensic psychologist. *See* Applicant's Motion to Reconsider Order Authorizing Funding for Expert and Investigative Services ("Motion to Reconsider") (May 8, 2014). Between the filing of the first funding motion and the motion to reconsider, counsel (1) completed their review of trial and appellate counsel and expert files; (2) interviewed the trial fact and mitigation investigators; (3) interviewed trial counsel Brana Williams; and (4) interviewed Dr. Joseph Wu, who testified at Stanko's trials. In the motion to reconsider, counsel set forth the specific factual issues in need of investigation by a fact investigator.[6] Counsel further sought reconsideration of the denial of funding for a forensic psychologist, stating that while counsel could not point to a specific mental health diagnosis at this time, their inability to do so was due to the fact that they themselves are not mental health experts

[6] Counsel informed the Court that (1) during a juror interview, Juror James Berry, who sat on Stanko's Horry County trial, revealed that his wife treated Laura Ling's teenage daughter when she was brought to the hospital after being sexually assaulted by Stanko and Mr. Berry though he would have been ineligible to serve as a juror had the fact been elicited during jury selection; (2) counsel's preliminary investigation tended to show that the state's portrayal of Stanko as a violent con-man who passed himself off as a lawyer was false or misleading because Stanko was, in fact, working for lawyers in the Horry County area; (3) trial counsel did not investigate the suspicious death of Stanko's older brother, despite the fact the death was a significant event in Stanko's life history; and (4) a fact investigator was necessary to discuss factual issues with Stanko, who is highly intelligent and very interested in the development of his PCR case.

and the mental health experts retained at trial were not asked to consider or provide opinions regarding any alternative diagnoses.[7] Given the limited nature of trial counsel's mental health and mitigation investigation in preparation for trial, counsel asserted that funding for a forensic psychologist in Stanko's proceedings was neither duplicative nor without legal purpose and was necessary to complete the life history and mental health investigation trial counsel failed to conduct.

On June 3, 2014, the Court partially granted and partially denied the motion to reconsider. The Court authorized $4,000 of the $10,000 requested for the fact investigator.[8] The Court, however, denied all funding requested for a forensic psychologist. The Court reasoned that "nothing before the court indicates that trial counsel's theory was incorrect or that a forensic psychologist will produce any evidence in support of Stanko's claims for post-conviction relief." Order Partially Granting Applicant's Motion to Reconsider 7 (June 3, 2014). The Court further stated that "the necessity of a forensic psychologist in this PCR action cannot be determined until the forensic psychologist completes a mental health examination of Sanko." *Id.* In denying funding for a forensic psychologist, the Court stated the standard for authorizing funds as follows:

> The statute [S.C. Code § 17-3-50(B)] does not authorize funding for services which cannot be deemed reasonably necessary to the applicant's representation until after the services are performed and a beneficial result obtained. In other words, the court cannot authorize funding for expert, investigative or other services simply to

[7] Counsel also informed the court that they interviewed Dr. Joseph Wu, who testified at Stanko's trial. Dr. Wu stated that he was not asked to do a full evaluation of Stanko or to offer a diagnosis. He was only asked to review Stanko's brain scans for evidence of brain damage that would support the finding of psychopathy. Counsel further pointed out that trial counsel's presentation of Stanko as a psychopath likely had the effect of dehumanizing him in the eyes of the jury and did not comport with reasonable professional standards.

[8] The Court found the amount requested for the fact investigator to be excessive and denied funding for the fact investigator to investigate Stanko's brother's suspicious death and to work with Stanko on developing and investigating factual issues as unnecessary in this PCR case.

determine if the criminal trial counsel "missed something" without anything to support a finding that the "something" existed in the first place.

Order Partially Granting Applicant's Motion to Reconsider 8.

Despite the lack of funding for expert services, counsel continued to diligently investigate Stanko's case. Counsel (1) completed interviews with the remainder of Stanko's trial counsel; (2) continued interviewing lay witnesses in conjunction with the mitigation investigator; (3) continued meeting with Stanko to develop a social history; (4) interviewed Stanko's sister and contacted his other siblings; and (5) analyzed and summarized information from records related to Stanko's social history and records regarding trial counsel's perparations. On July 28, 2014, counsel presented the Court with additional facts supporting their need for expert funding in Applicant's *Ex Parte* Second Motion to Authorize Funding for Expert Services ("Second Funding Motion"). Specifically, counsel requested $13,000 for the services of a licensed social worker[9] and $9,000 for the services of a media expert.[10]

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[9] In support of the request for a licensed social worker, counsel informed the Court that, in all capital cases, a defendant's social history must be investigated and considered for presentation at trial. *See Weik v. State*, 409 S.C. 214, 234, 761 S.E.2d 757, 767 (2014). Undersigned counsel stated that trial counsel focused on the psychopathy defense early in their preparation for trial and failed to adequately investigate and present other available mitigation and social history evidence by relying exclusively on opinions from experts who were hired for the specific purpose of supporting the psychopathy theory. Those experts were not asked, or equipped, to look more broadly at Stanko's life history and its mitigating impact on his development. Undersigned counsel further submitted that the expert who testified regarding Stanko's life history at trial did little to prepare for trial and was only able to testify generally and ineffectively about Stanko's upbringing. Counsel indicated that their mitigation investigation had uncovered mitigating evidence in Stanko's social and family history, including information about the harsh environment created by Stanko's military father, that was not presented at trail and required the assistance of a licensed social worker to develop, interpret, and present.

[10] In support of the request for a media expert, counsel informed the Court that media coverage of Stanko's case began immediately after the crimes occurred. The case was covered by local and national media throughout all stages, including law enforcement's national manhunt for and arrest of Stanko, preparations for his trial in Georgetown, each day of his trial in Georgetown, Stanko's conviction and death sentence in Georgetown, and preparations for his trial in Horry County. Undersigned counsel submitted that trial counsel was aware of the massive media cov

Approximately two months later, on September 25, 2014, the Court denied the requested funds for a licensed social worker and a media expert. *See* Order Denying Applicant's Second Motion To Authorize Funding for Expert Services (Sept. 25, 2014). The Court interpreted counsel's funding requests as arguing that funding for a licensed social worker and a media expert is necessary because "none were used during Stanko's criminal trial." *Id.* at 2. The Court denied the requests, stating "the necessity of a licensed social worker and a media expert in this PCR action cannot be determined until after they have completed their investigations." *Id.* The Court relied on the same standard for determining reasonable necessity as it did in the denial of the motion to reconsider funding for a forensic psychologist. As of the filing of this motion, Stanko does not have funding for the assistance of any expert in preparing his application for post-conviction relief or for the hearing scheduled for March 3, 2015.

II. LEGAL BASIS FOR AUTHORIZING THE EXPENDITURE OF FUNDS IN EXCESS OF THE STATUTORY LIMITS.

The legal basis for authorizing expenditure of the requested funds are set forth in Applicant's *Ex Parte* First Motion to Authorize Funding for Expert and Investigative Services, filed with the Court on April 1, 2014, and Applicant's *Ex Parte* Second Motion to Authorize Funding for Expert Services, filed with the Court on July 28, 2014.

III. ARGUMENT IN SUPPORT OF RECONSIDERATION.

Undersigned counsel are in an impossible (and unprecedented) bind. This Court has denied requests for funding for necessary expert assistance on the basis that Stanko cannot provide the court with the conclusions the experts will reach. This is not only inconsistent with the relevant

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surrounding the case, but that trial counsel did not present the trial court with any information regarding media coverage in moving for a change of venue. Counsel, therefore, asked the Court to approve funding for an expert in media studies and media saturation to conduct a study of the media coverage leading up to Stanko's trial and to present that evidence to the Court. **4910**

statutory language, but it is also at odds with more than twenty years of capital post-conviction practice in this state; no other judge has ever construed the statute to require conclusive proof of what an expert who has not yet been retained will conclude. The statute permits a court to authorize payment for investigative and expert services where they "are reasonably necessary for the representation of the" applicant. S.C. Code § 16-3-26(C)(1).[11] Nothing in the statute requires the applicant to demonstrate a beneficial result from the investigative or expert services prior to the court's authorization of funds. In counsel's experience, and in the experience of other practiced capital post-conviction attorneys in South Carolina, no court in the state has ever made authorization of funds for investigative and expert services contingent on a beneficial result obtaining or even on the services resulting in a claim being presented to the court. *See* Norris Aff. ¶ 7; Bloom Aff. ¶ 5; Holt Aff. ¶ 4.[12] Instead, courts have required counsel for PCR applicants to simply explain that further investigation or expert evaluation is needed in order to provide representation to the applicant. *See* Norris Aff. ¶ 7; Bloom Aff. ¶ 7.

The standard set forth in the Court's orders—requiring a favorable result for the applicant prior to authorizing expert funding—expects that counsel would be able to retain the services of an expert without being able to guarantee their services would be paid for. Essentially, an expert would have to agree to provide their services on the hope that their evaluation would give rise to

[11] Stanko refers to the funding provision set forth in S.C. Code § 16-3-26 as the provision applicable to capital proceedings, whereas the Court's orders referred to the "reasonably necessary" standard in the funding provision found in the general provisions of the chapter regarding defense of indigents. *See* S.C. Code § 17-27-160(B) (incorporating the funding provisions of S.C. Code § 16-3-26 into the capital case post-conviction relief procedures). The "reasonably necessary" language, however, is the same in each funding provision.

[12] All affidavits referenced in this motion are attached.

a winning claim in a PCR action.[13] Such a system is unworkable and would leave capital post-conviction applicants without the service of experts because, generally, experts will not commence work on a case without an order from the court authorizing payment for their services. *See* Andrews Aff. ¶¶ 5, 9; Norris Aff. ¶ 8.

The Court's interpretation of the "reasonably necessary" requirement, therefore, impedes counsel's ability to provide adequate representation to Stanko as a PCR applicant. *See Martinez v. Ryan*, 132 S. Ct. 1309 (2012) (holding that if a state court fails to provide a sufficient process, including competent collateral counsel, to ensure meaningful review of a state prisoner's ineffective assistance of trial counsel claims, then further development and merits review in federal court will not be precluded). The right to the assistance of counsel when filing an application for post-conviction relief is hollow in the absence of the concomitant right of an indigent applicant to receive funding for expert and investigative services where appropriate. *See Williams v. Martin*, 618 F.2d 1021, 1025 (4th Cir. 1980) (explaining that "[t]he quality of representation at trial may be excellent and yet valueless to the defendant if his defense requires . . . the services of a[n] . . . expert and no such services are provided") (citing ABA Standards, Providing Defense Services, commentary, 22-23 (App. Draft 1968)). It is the state's duty to "ensure that a defendant has . . . [funding for] the services of experts necessary to a meaningful defense." *Bailey v. State*, 309 S.C. 455, 459, 424 S.E.2d 503, 506 (1992).

The Supreme Court of the United States specifically recognized that the "right to counsel [in federal habeas corpus proceedings] necessarily includes a right for that counsel meaningfully to *research* and present a defendant's habeas claims." *McFarland v. Scott*, 512 U.S. 849, 859 (1994) (emphasis added). Post-conviction counsel in capital cases "must continue an aggressive

[13] An expert could not ethically state before doing an evaluation what the evaluation will yield. Any expert who did so would be subject to impeachment on that basis.

investigation of all aspects of the capital case." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.15.1(E)(4). "[C]ollateral counsel cannot rely on the previously compiled record but must conduct a thorough, independent investigation." *Id.* 10.15.1(E)(4) commentary. Thus, though counsel has no way of knowing at the outset of its post-conviction preparation what claims will ultimately be presented to the court, post-conviction counsel have a duty to investigate the case entirely and often require the assistance of experts to do so. *See id.* 4.1 commentary ("Analyzing and interpreting [evidence in a capital case] is impossible without consulting experts.")

The Supreme Court of the United States has also established that a state court reviewing a state prisoner's federal claims must provide the prisoner with an opportunity to present evidence relevant to the federal claims. *See Coleman v. Alabama*, 377 U.S. 129, 133 (1964). In order to meaningfully access and to provide a fair opportunity to present all relevant evidence, a court must provide adequate funding for investigative and expert services. The Supreme Court has specifically acknowledged that adequate factual development may be impossible without access to expert assistance. *See Panetti v. Quarterman*, 551 U.S. 930, 949–50 (2007) (petitioner, claiming incompetence to be executed in state post-conviction, was entitled to an "opportunity to make an adequate response to evidence solicited by the state court," including an opportunity to submit psychiatric evidence); *Ford v. Wainwright*, 477 U.S. 399, 427 (1986) (basic due process requirements included an opportunity to submit "evidence and argument from the prisoner's counsel, including expert psychiatric evidence that may differ from the State's own psychiatric examination"); *Ake v. Oklahoma*, 470 U.S. 68, 82 (1985) (assistance of a psychiatrist was necessary to prepare an effective defense based on the defendant's mental condition).

Undersigned counsel have identified facts demonstrating that expert services in this case are reasonably necessary. Counsel, therefore, request the Court reconsider its denial of funding for a licensed social worker, a forensic psychologist, and a media expert. In support of this request, counsel submit the following facts, which include new facts uncovered by counsel's investigation since the original requests for funding were presented to the Court.

A. Facts and argument relevant to the request for a licensed social worker.

Counsel ask the Court to reconsider its denial of funding for a licensed social worker to investigate and present Stanko's social history. Despite the fact that there is no way to know if the Court will ultimately deem it a winning claim, undersigned counsel have uncovered sufficient facts to identify trial counsel's inadequate development and presentation of Stanko's social history as a claim for post-conviction relief. *See* Final Amended Application for Post-Conviction Relief, Claim 11(e)(3).

In this case, undersigned counsel's investigation reveals that trial counsel settled on a theory that Stanko is a psychopath early on in their preparation for trial and failed to adequately investigate and present other available mitigation and social history evidence as a result. As part of their investigation, undersigned counsel interviewed Dale Davis, who served as the mitigation investigator for Stanko's Georgetown County trial. Davis stated that she objected to trial counsel's strategy to present Stanko as a psychopath. She told counsel their theory was not mitigating and that they needed to hire a social worker to aid in developing an presenting Stanko's social history. Over Davis' objections, trial counsel continued to pursue the psychopath strategy, limited their mitigation and mental health investigation accordingly, and did not hire anyone to aid in presenting Stanko's social history until approximately three weeks before trial.

Thus, undersigned counsel's investigation has made it clear that trial counsel focused on its psychopath "defense" without sufficient investigation and conducted the remainder of their trial preparation with a sort of "tunnel vision," ignoring anything that did not fit the psychopath theory. Trial counsel relied exclusively on opinions from experts who were hired for the specific purpose of supporting the psychopath theory. These experts were not asked, or equipped, to look more broadly at Stanko's life history and its mitigating impact on his development. Trial counsel's focus on the psychopath theory thus resulted in a curtailed mitigation and social history investigation.

In all capital cases, the defendant's social history must be investigated and considered for presentation at trial. *See Weik v. State*, 409 S.C. 214, 234, 761 S.E.2d 757, 767 (2014) ("Important sentencing considerations include a defendant's 'medical history, educational history, employment and training history, *family and social history*, prior adult and juvenile correctional experience, and religious and cultural influences'") (quoting *Wiggins*, 539 U.S. at 524); ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1, commentary ("[T]he defendant's psychological and social history and his emotional and mental health are often of vital importance to the jury's decision at the punishment phase."). The testimony of a licensed social worker is one of the most basic, fundamental elements of virtually every capital sentencing proceeding in the modern era. *See* ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases 10.11(E)(1)(a) (2008) (instructing that it is the duty of the defense team to prepare experts to testify, including social workers "with specialized knowledge of . . . physical, emotional and sexual maltreatment, trauma and the effects of such factors on the client's development and functioning"); *see also* Holt Aff. ¶ 7; Glass Aff. ¶ 7.

Here, trial counsel utterly failed to investigate and present the jury with an adequate and accurate overview of Stanko's social history as mitigation. Trial counsel did not call any family

members and called few friends, teachers, or employers.[14] Instead, trial counsel relied solely on Evelyn C. Califf who has a doctorate in Christian Counseling. Undersigned counsel's investigation has revealed that Califf began working on this case only a few weeks prior to trial and spent only one hour with the client and spoke briefly with only one of Stanko's sisters over the telephone in preparation for trial. As a result of her limited involvement, Califf was only able to testify generally and ineffectively about Stanko's upbringing and family life.

Undersigned counsel's investigation, conducted with the assistance of a mitigation investigator, has uncovered mitigating evidence in Stanko's social and family history that was not presented at trial. Since their appointment, counsel and the mitigation investigator have interviewed roughly twenty lay witnesses with knowledge of mitigating evidence surrounding Stanko's social history. Specifically, counsel have developed a relationship with Stanko's siblings, which was not done in preparation for trial, and have interviewed over a dozen friends, classmates, and teachers who were not interviewed by the trial team. These lay witnesses have presented a portrait of Stanko vastly different from that presented at trial.

Witnesses have described Stanko as generally well-liked, smart, outgoing, and a person with vast potential. During his late teenage years, Stanko began exaggerating the truth and, in some instances, outright lying. Around the same time, almost all of Stanko's close friends went off to college. Stanko did not go to college, despite his unquestioned intelligence and potential to succeed in college. Stanko instead began working as a salesman and began scamming friends and strangers.

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[14] Trial counsel also failed to even interview the appropriate people in Stanko's life to develop a full understanding of his life history and mental health. *See* ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 10.7, commentary ("It is necessary to locate and interview the client's family members (who may suffer from some of the same impairments as the client), and virtually everyone else who knew the client and his family, including neighbors, teachers, clergy, case workers, doctors, correctional, probation, parole officers, and others.").

This led to legal trouble and eventual incarceration during Stanko's mid to late 20s. This evidence demonstrates a need for a social worker to aid counsel in understanding the information provided by the lay witnesses, directing counsel toward other potentially mitigating evidence, and in presenting that evidence to the Court in support of Stanko's ineffective assistance of counsel claim. *See* Glass Aff. ¶ 7 ("A testifying social worker is, therefore, necessary to evaluate [mitigation] information like this and to describe how . . . events shaped Mr. Stanko's life, particularly in light of his significant brain damage."); ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases 10.11(E)(1)(a) (instructing a defense team to work with a social worker "with specialized knowledge of . . . physical, emotional and sexual maltreatment, trauma and the effects of such factors on the client's development and functioning").

Due to undersigned counsel's concerns about preparing for a hearing in this case in such a short period of time, counsel contacted licensed social worker Arlene Andrews, Ph.D. Though Dr. Andrews would not normally begin working on a capital case without a funding order from the court, she agreed to begin work on Stanko's case while the motion for her funding was pending.[15] Andrews Aff. ¶ 5. Dr. Andrews has, therefore, reviewed the trial mitigation testimony, reviewed Stanko family records, met with Stanko, and interviewed Stanko's brother. Andrews Aff. ¶ 7. As a result of her preliminary work on the case, Dr. Andrews believes there is a compelling mitigation story to be told in support of Stanko's PCR application. Andrews Aff. ¶ 8. In order to complete her social history evaluation and presentation, much work remains to be completed. Andrews Aff. ¶ 9. She must, (1) interview Mr. Stanko several more times; (2) interview Mr. Stanko's two remaining living siblings and other family members; (3) interview Mr. Stanko's friends and former girlfriends from childhood and leading up to his crimes; (4) review the social history records

[15] The funding statute, S.C. Code § 16-3-26(C)(1), authorizes the court to approve funding *nunc pro tunc*.

counsel are continuing to collect; and, (5) conduct any additional work that may develop as the investigation progresses. Andrews Aff. ¶ 9. However, Dr. Andrews cannot complete this work without authorization of funds from the Court. Andrews Aff. ¶ 9.

The fact that trial counsel presented the testimony of mental health experts and some social history evidence does not negate Stanko's claim. The Supreme Court of South Carolina recently overturned a circuit court's denial of post-conviction relief where trial counsel presented the testimony of three mental health experts and a social history witness. *See Weik*, 409 S.C. 214, 761 S.E.2d 757. The court found that "[t]hough counsel introduced *psychological* testimony regarding Petitioner's mental illness, counsel failed to present even a skeletal version of Petitioner's *social history* even though there was abundant social history evidence available to them." *Id.* at 235, 761 S.E.2d at 768 (emphasis original). Stanko's case involves the same circumstances where trial counsel focused their investigation and mitigation presentation on mental health evidence, while ignoring social history evidence readily available to them.

The assistance of a licensed social worker with capital case experience is therefore necessary to assist undersigned counsel in developing an understanding of Stanko's social history as it mitigates his crime and correlates to his mental health and in presenting related issues to this Court in support of his post-conviction relief claims. This Court must, therefore, authorize funds for a licensed social worker as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

Undersigned counsel have conferred with Dr. Andrews; she is willing and able to assist counsel in this case.[16] Counsel, with input from Dr. Andrews, estimate that expenditure of approximately 100 hours is reasonably necessary to conduct the required evaluation in this case.

[16] Dr. Andrews' current CV was attached to the Second Funding Motion filed with this Cou**4918**

The hours requested are reasonable given that, in counsel's experience, the request is on the low end of the number requested in similar cases and the request takes into account the expectation that the mitigation investigation conducted by counsel and the mitigation investigator will locate and identify the significant social history witnesses for Dr. Andrews to interview allowing her to conduct her social history evaluation efficiently. Dr. Andrews' rate is $130 per hour. Dr. Andrew's rate is reasonable given her experience and the fact that, in counsel's experience, this rate is on the low end of the average rates charged by expert Licensed Social Workers in South Carolina.

B. Facts and argument relevant to the request for a forensic psychologist.

Despite the fact that Stanko's mental health has been an issue in this case since the very beginning, a competent and reliable mental health evaluation has never been completed. Though there is no way to know if the Court will ultimately deem it a winning claim, undersigned counsel have uncovered sufficient facts to identify trial counsel's inadequate mental health evaluation of Stanko as a claim for post-conviction relief. *See* Final Amended Application for Post-Conviction Relief, Claim 11(e)(4).

Stanko has a high IQ of 143 and little history of violent behavior. Undersigned counsel's investigation clearly reveals that trial counsel's inquiry into Stanko's mental health was inadequate in that counsel settled on a theory that Stanko is a psychopath early on in their preparation for trial. Trial counsel then sought out an expert in psychopathy, Dr. Thomas Sachy, after learning of Dr. Sachy's involvement in a Georgia case where Dr. Sachy testified about his diagnosis of the defendant as a psychopath.[17] Undersigned counsel's interviews with members of Stanko's trial

[17] Undersigned counsel's investigation has revealed the inherent flaws in trial counsel's reliance on a diagnosis of psychopathy. Dr. Pamela Crawford, who testified as a court's forensic psychologist at trial, told undersigned counsel that the problem with trial counsel's use of the psychopathy diagnosis is that psychopathy is not an accepted clinical diagnosis, does not appear in the Diagnostic and Statistical Manual (the manual setting the standard for diagnosing mental disorders), and is not a mental illness.

team suggest that (1) Stanko's attorney, William Diggs, selected the psychopathy defense prior to the completion of any mental health evaluation of Stanko; (2) Diggs sought out an expert (Dr. Sachy) who was obsessed with psychopathy and determined that this theory was the best fit for Stanko's defense prior to completing an evaluation of Stanko; and (3) that neither Diggs nor Sachy could be dissuaded from the psychopathy theory even though they were advised that psychopathy was a bad strategy, it was not mitigating, and it had no chance of success.[18]

Undersigned counsel have diligently worked to interview the experts who testified at trial. Counsel's interview with Dr. Sachy confirmed that Dr. Sachy's work on the case began and ended with the theory that Stanko was a psychopath. Dr. Joseph Wu and Dr. Bernard Albiniak both informed counsel that their involvement in the case was limited in nature and they were never asked to conduct a formal mental health evaluation or provide a diagnosis. Counsel's investigation further indicates that Dr. Ruben Gur was only asked to analyze magnetic resonance imaging (MRI) of Stanko's brain and Dr. Marc Einhorn was only asked to conduct neurological testing, designed to evaluate brain functioning. Neither Dr. Gur nor Dr. Einhorn's reports indicate they conducted a mental health evaluation or made a mental health diagnosis. Finally, Dr. James Thrasher appears to have evaluated Stanko only for competency to stand trial and criminal responsibility. Dr. Thrasher's report does not indicate that he evaluated Stanko for mental illness as it related to mitigation. Accordingly, though six[19] psychological experts testified at Stanko's trial, none

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[18] *See supra* Section III.A (describing undersigned counsel's interview with mitigation investigator Dale Davis, who objected to trial counsel's strategy because it was inherently not mitigating and encouraged trial counsel to continue investigating Stanko's social history and mental health).

[19] The Court's order indicates there were seven mental health experts who testified at trail. Undersigned counsel submits there were only six. Brent Turvey, who also testified at trial, specializes in crime scene reconstruction and did not conduct a mental health evaluation of Stanko. Additionally, Dr. Evelyn Califf, who testified during the penalty phase of the trial, is a certified Christian counselor, not a psychologist. Dr. Califf was asked to present a social history, not to conduct a mental health evaluation.

completed a full mental health evaluation. *See* ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases 4.1 commentary ("Creating a competent and reliable mental health evaluation consistent with prevailing standards of practice is a time-consuming and expensive process" but is "often of vital importance to a jury's decision at the punishment phase.").

While undersigned counsel cannot point to a specific diagnosis at this time, counsel's inability to do so is due to the fact that they themselves are not mental health experts and the mental health experts retained at trial were not asked to consider or provide opinions regarding any alternative diagnoses. As the ABA Guidelines note, "Counsel's own observations of the client's mental status, while necessary, can hardly be expected to be sufficient to detect the array of conditions . . . that could be of critical importance." ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases 4.1 commentary. For this reason, the ABA Guidelines mandate that "at least one member of the defense team . . . be a person qualified by experience and training to screen for mental or psychological disorders or defects." *Id.*

"Mental health experts are essential to defending capital cases." ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases 4.1, commentary. Jurors making a determination of the punishment for a defendant often find "the defendant's psychological and social history and his emotional and mental health [to be] of vital importance." *Id.* Given the fact that trial counsel prematurely abandoned investigation into Stanko's life history and its effect on Stanko's mental health, there is a strong possibility that Mr. Stanko has a viable claim for ineffective assistance of counsel under *Sears*, *Porter*, *Wiggins*, *Williams*, and *Strickland.* Undersigned counsel, therefore, ask this Court to authorize the necessary funds for a forensic

psychologist to complete a competent and reliable mental health evaluation of Stanko as was never done before trial and cannot be completed without the assistance of a mental health expert. *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B); *see also* Norris Aff. ¶ 4 ("I do not recall even hearing of a capital post-conviction relief case in South Carolina where the court did not authorize funding for at least one mental health expert when a request was submitted by defense counsel.")

Undersigned counsel have conferred with Dr. Knight and she is willing to evaluate Mr. Stanko.[20] Dr. Knight estimates that it will require approximately 60 hours to review records, interview Stanko, conduct any needed psychological testing, interview relevant witnesses and prepare a report. Dr. Knight's rate is $250 per hour for clinical services and $125 per hour for travel outside of the Charleston area. Dr. Knight's rates are reasonable given her experience and the fact that, in counsel's experience, the rates are on the low end of the average rates charged by expert forensic psychologists in South Carolina.

C. Facts and argument relevant to the request for a media expert.

Despite the fact that there is no way to know if the Court will ultimately deem it a winning claim, undersigned counsel have uncovered sufficient facts to identify trial counsel's ineffectiveness in failing to conduct a media saturation study and present it to the trial court in support of the motion for a change of venue as a claim for post-conviction relief. *See* Final Amended Application for Post-Conviction Relief, Claim 11(b)(1), 11(b)(2). Prior to trial in Horry County, defense counsel decided to move for a change of venue. At the pre-trial motions hearing held one month prior to jury selection, however, trial counsel informed the trial court that they were not presenting the change of venue motion at that time. ROA 3110. Partway through voir dire, counsel asked for a change of venue based on members of the jury pool's prior knowledge of

[20] Dr. Knight's current CV was attached to the First Funding Motion filed with this Court. **4922**

the case against Stanko. ROA 1284-90. The State suggested it would be better for the court to consider the change of venue argument after the jury had been selected, but before it was sworn. ROA 1289.

In support of the change of venue motion, defense counsel did not object to the State's suggestion and the court delayed consideration of the change of venue motion until after selection of the jury. ROA 1289-90. After the jury was selected, defense counsel formally moved for a change of venue. ROA 1334-1415. Defense counsel presented the testimony of Dr. Bernard Albiniak, an expert in social psychology, who testified that in public forums, people will conform their statements to what they believe will be generally accepted by the group even if that is not what they actually believe. ROA 1336-81. Dr. Albiniak is not an expert in media saturation; he has never conducted a media study; and, during his testimony, he did not even mention having reviewed such a study. Dr. Albiniak opined that the jurors, when asked by the court if they could set aside their prior knowledge of the case, would tell the judge they could do so even if it was not what they believed. The State pointed out that none of Dr. Albiniak's research or studies involved juror behavior. With no evidence of the extent of the media coverage surrounding Stanko's case, the court denied the defense motion for a change of venue. ROA 1415.

The media coverage of Stanko's crimes and trial began immediately after the crimes occurred. Local and national media has continually covered all stages of Stanko's case, including law enforcement's national manhunt for and arrest of Stanko, preparations for his trial in Georgetown, each day of the trial in Georgetown County, Stanko's conviction and death sentence in Georgetown County, and preparations for Stanko's trial in Horry County. In fact, the entire Georgetown County trial was covered by 48 Hours, which aired an hour long special on Stanko multiple times prior to Stanko's trial in Horry County. Trial counsel were aware of the media

coverage surrounding Stanko's case before the jury was selected in Horry County, yet trial counsel did not present the trial court with any information about media coverage in moving for a change of venue.

The Sixth Amendment guarantees a criminal defendant the right to a trial by a fair and impartial jury. U.S. Const. amend. VI. Pretrial publicity about a case can be so pervasive and saturate the community to such an extent as to make it impossible to select an impartial jury from the community where the crime occurred. *See Rideau v. Louisiana*, 373 U.S. 723 (1963). In such a case, the pretrial publicity creates a presumption of juror prejudice and demonstrates that an impartial jury cannot be selected from a local jury pool. *See Skilling v. United States*, 561 U.S. 358 (2010).

In this case, the Horry County community was inundated with media detailing the crimes for which Stanko stood trial and Stanko's conviction and death sentence in Georgetown County. The media even extensively covered and detatiled the trial strategy used in Georgetown County, which was again presented in a nearly identical fashion to the Horry County jury. This creates a likelihood that, with the services of an appropriate expert, Stanko could have shown that an impartial jury could not have been selected from residents of Horry County. Trial counsel, however, presented no evidence relating to the amount and type of media coverage the potential jurors encountered in their daily lives before becoming members of the jury pool. This creates a strong likelihood that Stanko has viable claim for ineffective assistance of counsel under *Strickland.* An expert in media studies and media saturation is therefore necessary to conduct a study of the media coverage leading up to Stanko's trial and to present that evidence to the Court. The study, counsel believe, will demonstrate that the media surrounding Stanko's case saturated the Horry County community, making it impossible to select an impartial jury from that location.

Further, the study will show the information that trial counsel should have presented to the trial court in support of the motion for a change of venue. This Court must, therefore, authorize funds for a media expert as they are "reasonably necessary for the representation of the defendant." *See* S.C. Code §§ 16-3-26(C)(1), 17-27-160(B).

Undersigned counsel have conferred with Professor Vidmar about being retained on Stanko's case.[21] He is willing and able to assist counsel in conducting a media study for Stanko's case. Professor Vidmar made an initial review of the media surrounding the case and has confirmed the media study can be completed retroactively. Professor Vidmar has experience conducting and testifying regarding retroactive media studies in post-conviction cases. Counsel have conferred with Professor Vidmar and estimate that expenditure of approximately thirty hours[22] is reasonably necessary to conduct the required study and provide testimony in this case. Professor Vidmar's rate is $300 per hour. An affidavit from Professor Vidmar attached to the Second Funding Motion, demonstrates that his rates are reasonable given the fact that he has earned the same amount or significantly higher amounts in other cases on which he has recently been retained.

IV. SUMMARY OF REQUESTED EXPENDITURES.

For all of the reasons set forth above, Stanko requests the following expenditures:

Licensed Social Worker

To investigate, evaluate, and develop an understanding Stanko's social history, its mitigation of his crime, and to assist post-conviction counsel in presenting mitigating evidence related to Stanko's social history, Stanko requests authorization for the initial expenditure of

[21] Professor Vidmar's current CV was attached to the Second Funding Motion filed with this Court.
[22] The hours needed to conduct the media study are estimated at merely thirty hours because undersigned counsel, through their positions at the Death Penalty Resource & Defense Center and in an effort to conserve court resources, will have student assistance in collecting and organizing the relevant media for the study. Professor Vidmar, therefore, will require less time to review the materials and form his conclusions.

$13,000 and reasonable expenses to retain a Licensed Expert in Social Work to be paid at a rate of $130 per hour.

Forensic Psychologist

To investigate, evaluate, and develop an understanding of the correlation between Stanko's life history and his mental health and to assist post-conviction counsel in presenting mental health evidence, Stanko requests authorization for the initial expenditure of $15,000 and reasonable expenses to retain a forensic psychologist to be paid at a rate of $250 per hour for clinical services and $125 per hour for travel outside of the Charleston area.

Media Expert

To conduct a study of the media surrounding his case and present the conclusions of that study to the Court, Stanko requests authorization for the expenditure of $9,000 and reasonable expenses to retain a media expert to be paid at a rate of $300 per hour.

CONCLUSION

Wherefore, based on the above statements of facts and arguments, undersigned counsel request the Court reconsider its denial of funding for a licensed social worker, a forensic psychologist, and a media expert. Counsel further ask this Court to schedule a hearing, as soon as practicable, for oral argument on this motion.

October 14, 2014

Respectfully submitted,

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Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
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803-765-1044

LINDSEY S. VANN
Death Penalty Resource & Defense Center
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Columbia, SC 29201
803-765-1044

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Teresa L. Norris, who appeared personally before me, affirms and states the following:

1. I, Teresa L. Norris, worked at what is currently known as the Death Penalty Resource and Defense Center ("the Center"), from November 1994 until March 2006. I was the Senior Staff Attorney until April 1996 and thereafter served as Acting Director and then Director. As Director—and throughout my time at the Center—I attempted to monitor all capital post-conviction cases in the State of South Carolina. When I left the Center in 2006, I went into private practice where I continue to work almost exclusively on capital cases in South Carolina and other states.

2. I have served as counsel of record in approximately 42 capital cases in South Carolina, North Carolina, Mississippi, Texas, Virginia, the federal system, and the United States military system. My experience has included all stages of the proceedings from trial to clemency proceedings. I have served as counsel in at least twelve capital post-conviction proceedings in South Carolina. I have also served as a consultant, both pro bono and retained, in numerous other cases.

3. Counsel for Stephen C. Stanko have asked me to provide information concerning my experience in obtaining investigative and expert funding in capital post-conviction proceedings in South Carolina.

4. I do not recall ever being denied funding for a testifying social worker or for mental health experts. In virtually every case I have had, I have been allowed funding, at minimum, for a mitigation investigator, forensic psychiatrist, and a neuropsychologist. In a number of cases, I have also obtained funding for other additional mental health experts. I do not recall even hearing of a capital post-conviction relief case in South Carolina where the court did not authorize funding for at least one mental health expert when a request was submitted by defense counsel.

5. In every capital case, defense counsel requires assistance from investigators and experts to investigate, evaluate and prepare potential claims for relief. No attorney has the necessary skills and training to independently assess all potential areas of mitigation. That is, of course, precisely why funding for expert assistance is authorized and required to be disbursed prior to any evidentiary hearing or trial. The American Bar Association Guidelines for the Appointment and Performance of Defense Council in Death Penalty Cases (2003) have been cited with approval and repeatedly referenced as relevant guidelines by the Supreme Court of the United States, *see, e.g., Rompilla v. Beard*, 545 U.S. 374, 387 (2005); *Wiggins v. Smith*, 539 U.S. 510, 524 (2003); *Williams*, 529 U.S. at 396, and by the South Carolina Supreme Court, *see Council v. State*, 380 S.C. 159, 172-73, 670 S.E.2d

356, 363 (2008); *Ard v. Catoe*, 372 S.C. 318, 332, 642 S.E.2d 590, 597 (2007). Guideline 10.7(A) provides that "[c]ounsel at every stage have an obligation to conduct thorough and independent investigations relating to the issues of both guilt and penalty." The commentary to Guideline 10.7 explains that "[c]ounsel's duty to investigate and present mitigating evidence is now well established" and includes an obligation to investigate, among other things, medical history, family history, educational history and social history. Similarly, Guidelines 10.11(A) and (F) instruct that "counsel at every stage of the case have a continuing duty to investigate issues bearing upon penalty" and that counsel should carefully consider presenting expert testimony "to provide medical, psychological, sociological, cultural or other insights into the client's mental and/or emotional state and life history that may explain or lessen the client's culpability for the underlying offense(s)."

6. Regardless of whether one views the Guidelines as binding, in my own practice, I have had post-conviction relief granted to clients by the South Carolina Supreme Court because, at least in part, prior counsel did not adequately investigate and present mitigation through lay witnesses and experts. *See, e.g., Council v. State*, 380 S.C. 159, 670 S.E.2d 356 (2008); *Nance v. Ozmint*, 367 S.C. 547, 626 S.E.2d 878 (2006); *Von Dohlen v. State*, 360 S.C.598, 602 S.E.2d 738 (2004). In each of those cases, I could not have predicted what my court-authorized investigators and experts would find, but I could and did establish that the investigators and experts were reasonable and necessary, which is all that is required under the statute in order to obtain court approval for the funding necessary.

7. There is no way for an attorney to know what an investigator or expert might uncover, or if that information will create a claim for post-conviction relief, until after the investigation or evaluation is complete. I have never had a court deny funding for an investigator or expert because I could not foresee what the investigator or expert would find but I could point to "red flags" that clearly indicated the need for the investigator or expert; nor has a court ever denied funding on the basis that it could not deem investigative or expert services reasonably necessary until a beneficial result was obtained.

8. In my experience, investigators and experts generally will not conduct an investigation or evaluation in a post-conviction case or even begin to do so without an order from the court authorizing funding for the investigator or expert's services.

I affirm, under the penalty of perjury, that the foregoing is true and correct.

Teresa L. Norris
TERESA L. NORRIS

Sworn to and subscribed before me
This 9th day of October, 2014

Notary Public for the State of South Carolina
My commission expires: 6-19-16

4929

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Jeffrey P. Bloom, who appeared personally before me, affirms and states the following:

1. I, Jeffrey P. Bloom, am a licensed member of the following Bars: S.C.; N.C.; and N.Y. Currently, I am engaged in the private practice of law and have been so since April 1999. From 1992-1999, I was the Chief Public Defender for Richland County, Columbia, S.C. (This was prior to the establishment by the Legislature of a Circuit Defender system). From 1985-1992, I was with the Horry County Public Defender Office, Conway, S.C., and during that time was the Chief Public Defender for that County from 1988-1992. I also serve in the honorary position of Assistant Clinical Professor of Neuropsychiatry and Behavioral Science with the University of South Carolina School of Medicine, and have so served in that capacity since 1998.

2. I have served as counsel of record in more than 50 capital cases. This includes more than 15 capital jury trials, as well as numerous cases in state capital post-conviction and appeals.

3. Counsel for Stephen C. Stanko have asked me to provide information concerning my experience in obtaining investigative and expert funding in capital post-conviction proceedings in South Carolina.

4. In the capital and non-capital cases I have worked on at the trial and post-conviction levels in South Carolina, I have obtained literally hundreds of orders authorizing funding for investigators and experts to aid in the development of trial or post-conviction claims. At no time was I able to guarantee or establish to the trial or PCR court in advance that the expert or investigator whose professional services I sought to retain through court approval per the statute, would be beneficial to the case or actually be used in the case. The purpose of obtaining approval and payment for such services is to in fact investigate the case, including factual investigation, mental health investigation, and similar avenues.

5. In my experience, I have never had a judge interpret the "reasonably necessary" standard of South Carolina Code § 16-3-26(C)(1) to require demonstration of a beneficial result in order to authorize funding for investigative or expert services. Nor have I known a judge to interpret the standard to require a showing that the information obtained through investigative or expert services will actually be used in the case in order to authorize funding.

6. For example, in both non-capital and capital cases in General Sessions Court and with PCR's in Common Pleas Court, I have had Circuit Court Judges authorize funding for an investigator to assist with the interviewing of witnesses and collection of records, without knowing in advance if I would actually use the witnesses or records in the case. Similarly, I have had Circuit Court Judges

authorize funding in both trial and PCR cases for mental health professionals and/or other experts in both non-capital and capital cases, without knowing in advance if the information or opinion by said professional or expert would be useful to the case.

7. In every capital PCR case I have litigated, I did not know in advance if an investigator or expert would uncover something beneficial for actual use in court. There is no way for an attorney to know what an investigator or expert will discover. The best an attorney can do is explain why he or she believes, based on his or her review and assessment of the facts of the case, that investigative or expert services are needed. It is not uncommon for PCR counsel to invoke trial counsel's failure to investigate as a reasonable basis for funding to conduct the very investigation that trial counsel failed to perform. In fact, this is PCR counsel's very role pursuant to applicable South Carolina and United States Supreme Court precedent in capital jurisprudence, as set forth below and herein.

8. PCR counsel is required to conduct an independent investigation into all issues relevant to guilt or punishment, as well as make an assessment about whether the applicant received ineffective of assistance of counsel at trial. If PCR counsel has reason to believe that trial counsel failed to investigate a potential area of mitigation or unreasonably curtailed their mitigation investigation, this may form the basis of a valid claim of ineffective assistance of counsel. *See, e.g., Porter v. McCollum*, 558 U.S. 30, 40 (2009) (trial counsel "ignored pertinent avenues for investigation of which he should have been aware"); *Wiggins v. Smith*, 539 U.S. 510, 524 (2003) (counsel were deficient because they "abandoned their investigation of petitioner's background after having acquired only rudimentary knowledge of his history from a narrow set of sources"); *Council v. State*, 380 S.C. 159, 173, 670 S.E.2d 356, 363 (2009) ("Even the limited information obtained should have put counsel on notice that [defendant's] background, with additional investigation, could potentially yield powerful mitigating evidence."). Accordingly, PCR counsel will often explain that trial counsel failed to investigate something as a reason to support a request for funding for expert and/or investigator assistance with exploring and investigating that particular issue.

9. My experience working with investigators and experts is that they will not conduct their investigation or evaluation without an order from the court authorizing funding for their services. Nor do I know of any investigator or expert who would provide their services on the chance they will receive payment if their services create a beneficial result for the client.

10. Finally, I would respectfully submit that denial of funding for expert and/or investigative assistance in a capital case could likely be construed as reversible error where the denial was based upon a trial court's interpretation that PCR counsel could not show in advance that the professional services sought would be beneficial to the case. *See, e.g., Ake v. Oklahoma*, 470 U.S. 68 (1985) (Court reversed death sentence where trial court denied funding for independent psychiatrist).

I affirm, under the penalty of perjury, that the foregoing is true and correct.

JEFFREY P. BLOOM

Sworn to and subscribed before me
This 13th day of October, 2014

Notary Public for the State of South Carolina
My commission expires: 2/21/2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Diana Holt, who appeared personally before me, affirms and states the following:

1. I, Diana Holt, have been licensed to practice law in South Carolina since November of 1994. My practice is dedicated to representing indigent people sentenced to death or facing a possible death sentence at trial. I worked for non-profit agencies in Texas, South Carolina and Georgia from 1992, first as an intern, and from 1994 to 1998, when I entered private practice.

2. I have been court-appointed to serve as counsel of record in approximately ten death penalty cases at the trial level, none of which resulted in a death sentence. I am certified to serve as lead counsel in death penalty trials. I have served as counsel of record in approximately fifteen capital Post Conviction Relief actions. I have served as a mitigation investigator/counsel in more than ten capital cases, both pre-trial and at trial level post-conviction.

3. Counsel for Stephen C. Stanko have asked me to provide information concerning my experience in obtaining investigative and expert funding and my services as a mitigation investigator in trial level post-conviction proceedings in South Carolina.

DH 1 of 2

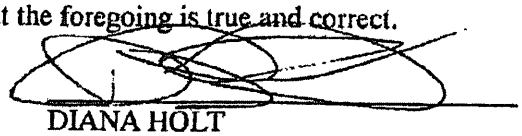
4. In the capital post-conviction cases I have worked on, I have never been denied funding for investigative or expert services because I did not know at the outset what the investigation and expert evaluation would uncover or if that information would ultimately form the basis of a successful claim for post-conviction relief.

5. In cases where I have been retained to serve as a mitigation investigator, funding for my services has always been authorized by the post-conviction court prior to my commencing an investigation. Payment for my services as a mitigation investigator has never been contingent on the information uncovered during my investigation being used in a claim for post-conviction relief or on a beneficial result being obtained for the client.

6. In my experience, there is no way to know at the outset of a mitigation investigation what the investigation will uncover. It is further impossible to know at the outset if the information to be uncovered during a mitigation investigation will be used in a claim for post-conviction relief.

7. When I serve as a mitigation investigator, my role is to compile a social history of the client by conducting interviews and collecting records relating to the client and his or her family. I present my findings to the attorneys appointed and experts retained on the case. To present a social history to a court, the typical practice in capital cases is to retain a testifying social worker who has experience in analyzing and presenting a social history.

I affirm, under the penalty of perjury, that the foregoing is true and correct.



DIANA HOLT

Sworn to and subscribed before me
This 13th day of October, 2014

Notary Public

Commission Expires: 2/21/2024

Dft
2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Arlene Bowers Andrews, PhD, who appeared personally before me, affirms and states the following:

1. I, Arlene Andrews, am a Licensed Social Worker, have a PhD in psychology, and am a retired professor of social work.

2. I have been retained to evaluate and present a social history in approximately 15 capital cases at the trial and post-conviction levels in South Carolina.

3. Stephen Stanko's attorneys contacted me about evaluating and presenting Mr. Stanko's social history in his Horry County post-conviction relief proceedings. I informed counsel that I was available to conduct and present a social history evaluation for the hearing in February or March of 2015, assuming the Court authorized funding for my services.

4. In my experience, the way a social history is developed and presented to a court is for counsel and a mitigation investigator to locate and interview witnesses and collect social history records. A testifying social worker, such as myself, then works with counsel and the mitigation investigator to review the social history records and to meet the key social history witnesses. The social worker then evaluates and presents to the court the social history evidence. In accordance with my experience, counsel for Mr. Stanko asked me to serve as a testifying social worker to evaluate and present Mr. Stanko's social history.

5. I would typically not begin working on a capital case without a funding order from the Court authorizing payment for my services. However, I have worked with Ms. Paavola before, and she explained to me that Mr. Stanko's case was scheduled for hearing within a relatively short period of time and she was concerned about waiting to get started while the motion for funding remained pending. Therefore, I began working on Mr. Stanko's case prior to receiving an order from the Court authorizing funding for my services. I cannot, however, continue my social history evaluation or present my findings to the Court without an order authorizing payment for my services.

6. I have never been retained in a case where payment for my services was contingent on the information I uncovered and developed being used as the basis for a claim in a case or on a favorable outcome being obtained for the client.

7. Since being contacted by Mr. Stanko's attorneys, I have reviewed the trial record to determine what social history evaluation had already been completed; I have reviewed social history records already collected by counsel and the mitigation investigator; I met and interviewed Mr. Stanko; and, I interviewed Mr. Stanko's brother.

8. Based on my preliminary evaluation, it is clear to me that a grossly inadequate social history was presented during Mr. Stanko's trial. My initial work has begun to reveal a compelling and mitigating social history story. He was born to a mother who was ill during pregnancy and birth records indicate possible complications. Mr. Stanko appeared to develop normally and was, by all accounts, a smart, well-liked, and charismatic individual. He was raised in a family that cared for each other and promoted positive social skills, but had difficulty dealing with emotional situations. At a young age, Mr. Stanko was profoundly affected by his oldest brother's murder, which remains unsolved, and his perceived educational and career failings. In addition, records indicate that Mr. Stanko has significant brain damage that was undiagnosed until he was facing murder charges. His condition likely influenced his lying and running poorly planned and executed financial scams. Mr. Stanko went to prison after offenses in the mid-1990s and adjusted well to life in prison. However, upon his release, he found his family was ashamed and related to him only in limited ways. With limited social support from his family and dealing with then-unknown brain damage, Mr. Stanko moved to the Myrtle Beach area where he had difficulty finding a job and handling the stressors of being a convicted felon on parole. Mr. Stanko ultimately went back to his schemes and eventually committed the crimes resulting in his death sentences.

9. A significant amount of work remains to complete and present my social history evaluation. I must: (1) interview Mr. Stanko several more times; (2) interview Mr. Stanko's two remaining living siblings and other family members; (3) interview Mr. Stanko's friends and former girlfriends from childhood and leading up to his crimes; (4) review the social history records counsel are continuing to collect; and, (5) conduct any additional work that may develop as the investigation progresses. This work cannot be completed without authorization of funds from the Court.

10. I believe Mr. Stanko's social history provides powerful mitigating evidence, but without the authorization of funds from the Court, I cannot complete the social history evaluation or aid counsel in their presentation of Mr. Stanko's social history at a hearing.

I affirm, under the penalty of perjury, that the foregoing is true and correct.

Arlene Bowers Andrews

ARLENE BOWERS ANDREWS

Sworn to and subscribed before me
This 14th day of October, 2014

Notary Public for the State of South Carolina
My commission expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

Drucy Glass, who appeared personally before me, affirms and states the following:

1. I, Drucy Glass, am a mitigation investigator in the state of South Carolina.

2. I have worked as a mitigation investigator/specialist since 1990 and have worked on more than forty capital cases at the trial and post-conviction levels in state, federal, and military courts.

3. I was retained by Stephen Stanko's counsel to serve as a mitigation investigator in Mr. Stanko's Horry County capital post-conviction relief proceedings. The Court entered an order authorizing funding for my services in Mr. Stanko's case on April 29, 2014.

4. My role as a mitigation investigator involves locating and interviewing lay witnesses, locating and obtaining social history records, and summarizing the information collected for presentation to the attorneys and experts involved in the case. In order to present my social history findings to the court, the typical practice is for counsel to retain a testifying social worker who will analyze the social history information I have developed, meet the key social history witnesses, review the social history records, and present that information to the court or jury.

5. I believe a testifying social worker is necessary to present Mr. Stanko's social history to the Court in this proceeding.

6. Since being retained on Mr. Stanko's case, I have worked closely with counsel. I have interviewed friends and neighbors of Mr. Stanko and his family in the Goose Creek area, where he lived until he went to prison in the mid-1990s. I have also worked with counsel to obtain records relating to Mr. Stanko and his family. This preliminary mitigation investigation reveals that the mitigation investigation and social history presented at Mr. Stanko's trial was incomplete and failed to tell the whole story of Mr. Stanko's life.

7. More mitigation investigation remains to be completed; however, my investigation thus far indicates that a significantly mitigating story of Mr. Stanko's life was not uncovered or presented at Mr. Stanko's trial. My investigation has revealed that Mr. Stanko was raised in a very private family which hid significant family events either due to shame or an inability to acknowledge the emotions surrounding the event. For example, Mr. Stanko was fifteen years old when his oldest brother was murdered. Mr. Stanko and his brother became very close in the years before the murder and Mr. Stanko was profoundly affected by his brother's death. Nevertheless, Mr. Stanko's closest friends at the time did not even know Mr. Stanko's brother died. The Stanko family, including Mr. Stanko, did not talk about this traumatic family event or express the pain they experienced, even with those

closest to them. This same shame effected the family when Mr. Stanko went to prison in the mid-1990s. Mr. Stanko's family hid the fact that he was in prison and then refused to help him when he was released in 2004. A testifying social worker is, therefore, necessary to evaluate information like this and to describe how these, and other, events shaped Mr. Stanko's life, particularly in light of his significant brain damage.

I affirm, under the penalty of perjury, that the foregoing is true and correct.

Drucy Glass
DRUCY GLASS

Sworn to and subscribed before me
This 10th day of October, 2014

Notary Public for the State of South Carolina
My commission expires: 2/21/2024

State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

P. O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
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Telephone: (843) 545-3030
Facsimile: (843) 545-3282
Email: bculbertsonj@sccourts.org

December 11, 2014

Via U.S. Mail and Email Delivery

PERSONAL & CONFIDENTIAL
Emily C. Paavola, Esquire
Lindsey S. Vann, Esquire
Death Penalty & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201

Email: Emily@deathpenaltyresource.org
Email: Lindsey@deathpenaltyresource.org

RE: *Stephen C. Stanko, #6022 v. State of South Carolina*
Case Number: 2014-CP-26-035

Dear Ms. Paavola and Ms. Vann:

As requested in your motion forwarded to me under cover of letter dated 10/14/2014, I have scheduled an *ex parte* hearing of your Motion to Reconsider Denial of Funding for Expert and Investigative Services for **1/6/2015** at **9:30 a.m.** in my chambers of the **Horry County Judicial Complex** in **Conway, SC.**

With kindest regards, I remain

Very truly yours,

Benjamin H. Culbertson

BHC/bhc

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
Stephen C. Stanko, #6022,	)	
	)	Case No. 2014-CP-26-035
Applicant,	)	
	)	
vs.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

EX PARTE
TO BE FILED UNDER SEAL

MOTION FOR ORDER OF TRANSPORT

Applicant Stephen C. Stanko is an indigent, death-sentenced inmate, who asked this Court to reconsider its funding denials in an *Ex Parte* Motion to Reconsider Denial of Funding for Expert and Investigative Services and Request for an *Ex Parte* Hearing ("Motion to Reconsider"), filed on October 14, 2014. On December 11, 2014, this Court ordered an *ex parte* hearing on the matter to take place on January 6, 2015. Mr. Stanko, through undersigned counsel, now respectfully moves this Court to enter an Order of Transport to allow him to attend the hearing. In support of the motion, Stanko presents the following:

This motion is *ex parte* as authorized by state law. S.C. Code Ann. §§ 16-3-26(C), 17-27-160(B). Mr. Stanko requests that this Court order this motion sealed and not filed in the public record of this proceeding or disclosed in any manner to the State or its attorneys.

The South Carolina Department of Corrections requires an Order of Transport signed by a

judge in order to make arrangements to transport an inmate to a court hearing.[1]

As detailed in the Motion to Reconsider, the funding issues to be discussed at the January 6th hearing are of paramount importance to Mr. Stanko's case. Without adequate funding for a licensed social worker, a forensic psychologists, and services of a media expert, Mr. Stanko's post-conviction relief claims cannot be investigated, developed, or presented to this Court. Given the centrality of the funding issues to Mr. Stanko's ability to present his claims and ultimately to his chances of success on his post-conviction relief application, Mr. Stanko requests that he be present for the hearing.

Accordingly, Mr. Stanko respectfully asks this Court to enter an Order of Transport requiring the South Carolina Department of Corrections to transport him to the Horry County Judicial Complex for the 9:30 a.m. hearing on January 6, 2015.[2]

December 19, 2014

Respectfully submitted,

EMILY C. PAAVOLA
Death Penalty Resource & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201
803-765-1044

LINDSEY S. VANN
Death Penalty Resource & Defense Center
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Columbia, SC 29201
803-765-1044

[1] Because the hearing will be *ex parte*, the Respondent will not prepare the order of transport as is typically the case in a hearing in a post-conviction relief proceeding. Mr. Stanko, therefore, asks this Court to enter the required order.

[2] A proposed order is attached.

State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

P. O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
Georgetown, South Carolina
Telephone: (843) 545-3030
Facsimile: (843) 545-3282
Email: bculbertsonj@sccourts.org

December 29, 2014

Via U.S. Mail and Email Delivery

PERSONAL & CONFIDENTIAL
Emily C. Paavola, Esquire
Lindsey S. Vann, Esquire
Death Penalty & Defense Center
900 Elmwood Avenue, Suite 101
Columbia, SC 29201

Email: Emily@deathpenaltyresource.org
Email: Lindsey@deathpenaltyresource.org

RE: *Stephen C. Stanko, #6022 v. State of South Carolina*
Case Number: 2014-CP-26-035

Dear Ms. Paavola and Ms. Vann:

As previously advised, I have cancelled the hearing of the Motion to Reconsider in the above referenced case and will decide the motion without oral arguments as permitted by Rule 59(f), SCRCP. In that regard, I enclose a copy of the Form 4 order denying your Motion for Order of Transport.

The original Form 4 is forwarded to the Clerk of Court under cover of this letter for filing.

With kindest regards, I remain

Very truly yours,

Benjamin H. Culbertson

BHC/bhc
Enclosure (a/s)
pc: Horry County Clerk of Court

4942

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-26-035

Stephen C. Stanko, #6022
PLAINTIFF(S)

State of South Carolina
DEFENDANT(S)

Submitted by: Benjamin H. Culbertson, Presiding Judge	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

Applicant's Ex Parte Motion for Order of Transport is DENIED. The Motion to Reconsider to which the applicant seeks an order of transportation will be decided without oral arguments.

(This motion is decided without oral arguments.)

ORDER INFORMATION

This order ☐ ends ☑ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	$ N/A
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Benjamin H. Culbertson

Benjamin H. Culbertson, Circuit Court Judge | 2148 **Judge Code** | Dec. 29, 2014 **Date**

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

Emily C. Paavola
Lindsey S. Vann

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: None

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

4944

STATE OF SOUTH CAROLINA COUNTY OF HORRY Stephen C. Stanko, #6022, Applicant, vs. State of South Carolina, Respondent.	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT Case No. 2014-CP-26-035

EX PARTE
TO BE FILED UNDER SEAL

APPLICANT'S BRIEF IN SUPPORT OF MOTION TO RECONSIDER DENIAL OF FUNDING FOR EXPERT AND INVESTIGATIVE SERVICES

This Brief is filed in support of indigent capital post-conviction relief Applicant Stephen C. Stanko's Motion to Reconsider Denial of Funding for Expert and Investigative Services. Stanko requests that this Court reconsider its previous denials of his requests for funds for investigative and expert services. Specifically, Stanko asks the Court to reconsider its denial of the following funding requests: (1) $13,000 for the services of a licensed social worker, (2) $15,000 for the services of a forensic psychologist, and (3) $9,000 for the services of a media expert. These funds are necessary to provide Stanko with constitutionally and statutorily adequate resources to pursue his post-conviction relief action. *See, e.g.*, U.S. Const. amends V, VI, VII, XIV; S.C. Const. arts. I, III, XIV; S.C. Code § 17-27-160; *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992); S.C. App. Ct. R. 602.

This Brief is *ex parte* as authorized by state law. S.C. Code Ann. §§ 16-3-26(C), 17-27-160(B). Stanko requests that this Court order this Brief sealed and not filed in the public record of this proceeding or disclosed in any manner to the State or its attorneys.

The legal and factual bases in support of the motion are set forth below.

I. PROCEDURAL HISTORY

Stanko was convicted and sentenced to death by an Horry County jury in connection with the April 8, 2005 murder and armed robbery of Henry Turner.[1] *State v. Stanko*, 402 S.C. 252, 258, 741 S.E.2d 708, 711 (2013). On direct appeal, the Supreme Court of South Carolina affirmed the conviction and sentence. *Id.* Stanko subsequently moved for a stay of execution in order to pursue post-conviction relief. The Supreme Court of South Carolina issued a stay of execution and assigned the post-conviction relief proceedings to this Court. Order, *State v. Stanko*, No. 2010-154746 (S.C. Nov. 7, 2013). This Court appointed undersigned counsel to represent Stanko on February 4, 2014.

On February 21, 2014, this Court entered a Scheduling Order in this post-conviction relief proceeding, scheduling a merits hearing for December of 2014. Scheduling Order (Feb. 21, 2014). The Court subsequently, on April 29, 2014, amended the Scheduling Order to tentatively schedule a merits hearing for February of 2015. Amended Scheduling Order (Apr. 29, 2014). On September 25, 2014, the Court set a date certain for the merits hearing, scheduling the trial in this post-conviction relief proceeding to commence on March 2, 2015 and ordering the discovery be completed by January 31, 2015. Order for Date Certain Trial and Second Amended Scheduling Order (Sept. 25, 2014).

[1] Stanko was also convicted of murder and other charges in Georgetown County in connection with the April 7, 2005 murder of Laura Ling and sexual assault of Ms. Ling's teenage daughter. Stanko was sentenced to death for the murder of Laura Ling on August 18, 2006. *See State v. Stanko*, 376 S.C. 571, 658 S.E.2d 94 (2008). The Georgetown County convictions and sentence are currently the subject of a post-conviction relief proceeding in Georgetown County. Undersigned counsel do not represent Stanko in connection with his Georgetown County proceedings.

After being appointed, undersigned counsel began diligently reviewing the record and conducting an independent investigation. On April 1, 2014, counsel filed Applicant's First Motion to Authorize Funding for Expert and Investigative Services ("First Funding Motion"). During the two months between their appointment and filing the First Funding Motion, undersigned counsel (1) spent approximately 85 hours, combined, reviewing the records from Stanko's trials, the court exhibits, and trial counsel's files; (2) interviewed the client four times; (3) interviewed the jurors who sat on Stanko's trial; and (4) began investigating by meeting with Stanko's sister and a friend and conducting preliminary interviews with trial counsel and the mitigation investigator for the Georgetown County trial. After conducting this preliminary investigation and recognizing that a hearing then-scheduled for December created an expedited timeline for investigating a post-conviction capital case,[2] undersigned counsel moved for funding to aid in the investigation, development, and presentation of Stanko's claims. Specifically, the First Funding Motion

[2] In the First Funding Motion, counsel noted:

> [T]he scheduling order entered in this case is, in counsel's experience, extraordinarily short. Apart from this matter, Ms. Paavola has served as post-conviction counsel in seven capital post-conviction relief cases in South Carolina and has never previously been to hearing in such a short period of time. In order for counsel to have even a fighting chance of adequately preparing Mr. Stanko's claims for an evidentiary hearing under the current scheduling order, the immediate, competent, and adequately funded assistance of investigators and experts is essential.

First Funding Motion 6-7 (Apr. 1, 2014).

requested the Court authorize funding of $10,000 for a fact investigator, [3] $15,000 for a mitigation investigator,[4] and $15,000 for the services of a forensic psychologist.[5]

On April 29, 2014, this Court granted funding for the requested mitigation investigator, but denied funding for a fact investigator and a forensic psychologist. The Court denied funds for a fact investigator, finding counsel did not specifically identify new facts that required investigation and or trial testimony that may have been false or misleading. The Court denied funding for a forensic psychologist "without more substantial indications that the Applicant suffers a mental illness other than being a psychopath," because trial counsel presented testimony from seven experts in support of their insanity defense, and because the Court "assume[d] that none of the seven experts testifying on the Applicant's behalf during his criminal trial were of the opinion the

[3] In support of the request for a fact investigator, counsel informed the Court that recently revealed facts suggested the possibility of juror bias and that the state may have presented false or misleading testimony regarding scams Stanko allegedly ran. Counsel, therefore, requested funding for a fact investigator to aid in investigating the issues already identified, identifying other issues for investigation, and presenting Stanko's claims for post-conviction relief.

[4] In support of the request for a mitigation investigator, counsel informed the Court that their preliminary investigation indicated trial counsel prematurely curtailed their mitigation investigation after settling on the theory that Stanko was a psychopath early on in the course of preparation for Stanko's Georgetown County trial and did not hire a mitigation investigator for the Horry County trial. Counsel also indicated that a mitigation investigator was needed to develop a relationship with Stanko's siblings, two of whom live outside of South Carolina and to conduct the record collection, which is complex due to Stanko's father's military service moving the family on numerous occasions.

[5] In support of the request for a forensic psychologist, counsel informed the Court their preliminary investigation revealed that trial counsel's inquiry into Stanko's mental health and life history was inadequate because counsel settled on a theory that Stanko is a psychopath early on in their trial preparation. As a result, trial counsel curtailed the mitigation investigation and failed to direct mental health experts to consider the relationship between Stanko's life history and brain damage and/or mental illness. Counsel, therefore, asserted that the assistance of a forensic psychologist was necessary to assist counsel in developing an understanding of Stanko's life history as it correlates to his mental health and presenting related issues to the Court.

Applicant suffered a mental illness other than being a psychopath." Order Authorizing Funding for Expert and Investigative Services (Apr. 29, 2014).

The next week, on May 8, 2014, counsel moved for reconsideration of the Court's denial of funding for the fact investigator and the forensic psychologist. *See* Applicant's Motion to Reconsider Order Authorizing Funding for Expert and Investigative Services ("Motion to Reconsider") (May 8, 2014). Between the filing of the first funding motion and the motion to reconsider, counsel (1) completed their review of trial and appellate counsel and expert files; (2) interviewed the trial fact and mitigation investigators; (3) interviewed trial counsel Brana Williams; and (4) interviewed Dr. Joseph Wu, who testified at Stanko's trials. In the motion to reconsider, counsel set forth the specific factual issues in need of investigation by a fact investigator.[6] Counsel further sought reconsideration of the denial of funding for a forensic psychologist, stating that while counsel could not point to a specific mental health diagnosis at this time, their inability to do so was due to the fact that they themselves are not mental health experts and the mental health experts retained at trial were not asked to consider or provide opinions regarding any alternative diagnoses.[7] Given the limited nature of trial counsel's mental health and

[6] Counsel informed the Court that (1) during a juror interview, Juror James Berry, who sat on Stanko's Horry County trial, revealed that his wife treated Laura Ling's teenage daughter when she was brought to the hospital after being sexually assaulted by Stanko and Mr. Berry though he would have been ineligible to serve as a juror had the fact been elicited during jury selection; (2) counsel's preliminary investigation tended to show that the state's portrayal of Stanko as a violent con-man who passed himself off as a lawyer was false or misleading because Stanko was, in fact, working for lawyers in the Horry County area; (3) trial counsel did not investigate the suspicious death of Stanko's older brother, despite the fact the death was a significant event in Stanko's life history; and (4) a fact investigator was necessary to discuss factual issues with Stanko, who is highly intelligent and very interested in the development of his PCR case.

[7] Counsel also informed the court that they interviewed Dr. Joseph Wu, who testified at Stanko's trial. Dr. Wu stated that he was not asked to do a full evaluation of Stanko or to offer a diagnosis. He was only asked to review Stanko's brain scans for evidence of brain damage that would support the finding of psychopathy. Counsel further pointed out that trial counsel's presentation of Stanko

mitigation investigation in preparation for trial, counsel asserted that funding for a forensic psychologist in Stanko's proceedings was neither duplicative nor without legal purpose and was necessary to complete the life history and mental health investigation trial counsel failed to conduct.

On June 3, 2014, the Court partially granted and partially denied the motion to reconsider. The Court authorized $4,000 of the $10,000 requested for the fact investigator.[8] The Court, however, denied all funding requested for a forensic psychologist. The Court reasoned that "nothing before the court indicates that trial counsel's theory was incorrect or that a forensic psychologist will produce any evidence in support of Stanko's claims for post-conviction relief." Order Partially Granting Applicant's Motion to Reconsider 7 (June 3, 2014). The Court further stated that "the necessity of a forensic psychologist in this PCR action cannot be determined until the forensic psychologist completes a mental health examination of Sanko." *Id.* In denying funding for a forensic psychologist, the Court stated the standard for authorizing funds as follows:

> The statute [S.C. Code § 17-3-50(B)] does not authorize funding for services which cannot be deemed reasonably necessary to the applicant's representation until after the services are performed and a beneficial result obtained. In other words, the court cannot authorize funding for expert, investigative or other services simply to determine if the criminal trial counsel "missed something" without anything to support a finding that the "something" existed in the first place.

Order Partially Granting Applicant's Motion to Reconsider 8.

Despite the lack of funding for expert services, counsel continued to diligently investigate Stanko's case. Counsel (1) completed interviews with the remainder of Stanko's trial counsel; (2)

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as a psychopath likely had the effect of dehumanizing him in the eyes of the jury and did not comport with reasonable professional standards.

[8] The Court found the amount requested for the fact investigator to be excessive and denied funding for the fact investigator to investigate Stanko's brother's suspicious death and to work with Stanko on developing and investigating factual issues as unnecessary in this PCR case.