

ORIGINAL

VOLUME EIGHT OF EIGHT

STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM HORRY COUNTY
Steven H. John, Circuit Court Judge

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

RECORD ON APPEAL

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**** DEFENDANT'S EXIBITS 2-19 (NORMAL BRAIN/STANKO BRAIN)
HAVE BEEN TRANSPORTED TO THIS COURT****

1 Nine o'clock, Tuesday. 539, Ryan Rodriguez. 99,
2 Johnny Causey. 181, Gerald Ellis. 330 Jennifer
3 Johnson. 654, Michael Walsh.

4 Ten-fifteen, Tuesday. 377, Paul Leckie. 510, Jane
5 Powell. 658, Kristal Warren. 38, Richard Beasley.
6 411, Sharon Maples.

7 CLERK'S ASSISTANT: 38 and 411.

8 THE CLERK: 38, Richard Beasley. 411, Sharon
9 Maples.

10 THE COURT: Have you got those, Madam Clerk?

11 THE CLERK: Yes, sir.

12 Tuesday at eleven-thirty. 290, Brenda Holderfield.
13 488, Vickie Miller -- 448, Vickie Miller. 251, Russell
14 Greene. 90, Barbara Carr. 103, Joyce Chestnut.

15 CLERK'S ASSISTANT: 251.

16 THE CLERK: 251, Russell Greene.

17 One forty-five, Tuesday. 660, Sylvia Waterston.
18 594, Sandra Snyder. 690, Delphia Wilson. 424, Lisa
19 McGee. 46, James Bellamy.

20 Three o'clock, Tuesday. 634, Kyna Triplett. 69,
21 Randall Broughton. 508, Beverly Pitman. 484, Linda
22 Orsimarsi, something like that. 347, Ariane Joyce.

23 Four-fifteen, Tuesday. 157, David Dimasio. 480,
24 Bonnie Oguin. 459, Gloria Morris. 597, Joyce Spengler.
25 378, Tonja Leidig.

1 CLERK'S ASSISTANT: That leaves 157.

2 THE COURT: 157, Madam Clerk.

3 THE CLERK: Okay, 157.

4 Nine o'clock, Wednesday morning. 608, Siobhan
5 Stevens. 662, Jimmy Watson. 35, Mary Bates. 19, Tina
6 Angelo. 167, Linda Dupree.

7 CLERK'S ASSISTANT: That leaves 19.

8 THE CLERK: 19, Tina Angelo.

9 THE COURT: Have you got it down, Madam Clerk?

10 THE CLERK: Yes.

11 Wednesday at ten-fifteen. 95, Angel Castillo.
12 642, Velvadean Vaught. 131, Walter Cumbow. 208, Jill
13 Fowler. 200, Steven Finley.

14 Wednesday at eleven-thirty. 156, Rose Diaz. 11,
15 Wesley Allen. 257, Celeste Griffin. 106, Zachary
16 Clark. 352, Lisa Keane.

17 One forty-five, Wednesday. 337, Rhonda Johnson.
18 275, Shannon Headley. 234, John Gira. 380, Sharon
19 Lemon. 472, Sara Newton.

20 Wednesday at three o'clock. 88, Sonny Cannon.
21 375, Michael Laughter. 668, Jeremie West. 568, Thomas
22 Shelley. 60, Gina Boggs.

23 Three o'clock, Wednesday -- that's the one I just
24 did.

25 Okay, four-fifteen, Wednesday. 351, Brian Keane.

1 329, Glenda Johnson. 240, Donna Gore. 237, Kimberley
2 Goh. 345, Timothy Jordan.

3 Thursday at nine o'clock. 41, Daniel Becker. 4,
4 Anntanette Aklin. 224, Terry Gartner. 107, Andrew
5 Claybrook. 615, Robert Summers.

6 THE CLERK: 107 and 615 were left.

7 Okay, ten-fifteen on Thursday. 260, Robert Hall.
8 393, Christopher Lombardi. 215, Lynn Frick. 468,
9 Hattie Myers. 326, Amanda Johnson.

10 Thursday at eleven-thirty. 573, Dorothy Simpson.
11 12, James Allison. 3, Gwendolyn Agripino. 313, Melissa
12 Isaacson. 389, David Lloyd.

13 Thursday at one forty-five. 622, Beverly Thalman.
14 661, Barry Watson. 43, Daniel Begley. 134, Nancy
15 Custard. 322, Gary Jeffcoat.

16 Thursday at three o'clock. 162, Jeremiah Doyle.
17 246, Norman Graham. 166, Sybil Dupie. 170, Patrick
18 Duvall. 294, Andrea Hollemback.

19 Thursday at four-fifteen. 557, Lisa Supochak.
20 548, Valerie Renala. 518, Tammy Rosinski. 505, Cynthia
21 Phipps. 571, Robert Simone.

22 THE COURT: Just read them over again, Madam
23 Clerk.

24 THE CLERK: Okay. 557, Lisa Sapochak. She got
25 hers, didn't she?

1 CLERK'S ASSISTANT: Yes.

2 THE CLERK: 548, Valerie Ruonala. 518, Tammy
3 Radzinski. 505, Cynthia Phipps. 571, Robert Simeone.

4 CLERK'S ASSISTANT: We need 548 and 518.

5 THE CLERK: Okay, Friday at nine o'clock. 370,
6 David Lally. 54, Jamie Bess. 672, Elaine Wheaton. 65,
7 Jeannemarie Brady. 227, Solomon Gause.

8 Friday at ten-fifteen. 250, Diane Graziano. 632,
9 Bernard Tomayko. 467, George Myers. 586, Gene Smith.
10 190, James Faircloth.

11 All right, ladies and gentlemen, for today, we are
12 almost at the end of the process. The next thing that I
13 need to do is I need to administer an additional oath to
14 you at this time, so if all of the potential jurors
15 would stand at this time. Everyone stand at this time.

16 Raise your right hand. Will you faithfully comply
17 with the instructions the Court has given you, including
18 your duty not to expose yourself to any further
19 information about this case from the press or any
20 person. If you agree to be bound by this oath, please
21 say, "I will," and sit down. (The jurors comply by
22 stating "I will" and are seated.)

23 If there is any member of the jury panel that did
24 not take the oath, please stand at this time. (No
25 response.)

1 All right, ladies and gentlemen, this will be
2 probably the final time that I will remind you about
3 this. You remember under your oath you are a potential
4 juror in this case. You are prohibited from watching,
5 reading, listening to any news about this case, or any
6 aspect of the law. You may not use the Internet or any
7 other research tool to read about or to investigate this
8 case. You may not discuss the matter with anyone.

9 The answers to the questions that we will pose to
10 you, any decision you make must be yours alone, not
11 influenced by anyone. When you are individually
12 questioned, you will be asked if you have kept true to
13 your oath and these instructions by the Court. Failure
14 to do so could subject you to being held in contempt of
15 court.

16 I know you will accept the challenge of citizenship
17 that has been given to you today, and you will respond
18 properly to this request for civic responsibility. I
19 appreciate your patience in this matter. It's an
20 extremely important matter. We will do our best to work
21 with you in good faith and in a professional manner. We
22 will do our best, and I assure you that you will be
23 treated with courtesy and respect, and if you are not,
24 you will report that to me and I will take care of that.

25 I have tried to arrange the scheduling of these

1 jury panels so as to minimize the inconvenience to you.
2 I have elected obviously not to sequester the whole
3 bunch of you, and we will not sequester anyone until we
4 have the jury for this particular case, and if you are
5 selected, I will give you further instructions about
6 this.

7 I am confident that you will honor the oath that
8 you just took. In the meantime, if you have any
9 questions, please let the Clerk's Office know, let the
10 bailiffs know.

11 Anything further from the State at this time?

12 MR. HUMPHRIES: Nothing from the State.

13 THE COURT: From the Defense?

14 MR. DIGGS: No, Your Honor.

15 THE COURT: Thank you very much.

16 All right, ladies and gentlemen, Thank you very
17 much. You are now excused. Thank you very much.

18 (Conclusion of Transcript of Record.)
19
20
21
22
23
24
25

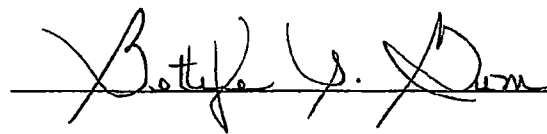
1 STATE OF SOUTH CAROLINA)

2 COUNTY OF Horry)

3
4 I, the undersigned Bettye S. Gum, Certified Court
5 Reporter and Notary Public in and for the State of South
6 Carolina, do hereby certify that the foregoing is a
7 true, accurate and complete Transcript of Record of all
8 the proceedings had and evidence introduced in the
9 hearing of the captioned case, as taken by Dixie Cox
10 Eubank, Official Reporter, and transcribed by me,
11 relative to appeal, in the Court of General Sessions for
12 Horry County, South Carolina.

13 I do further certify that I am neither of kin,
14 counsel, nor interest to any party hereto.

15
16
17 July 15, 2010

18
19 

20 BETTYE S. GUM, CCR-CVR-CM

21 Certified Court Reporter and
22 Notary Public for South Carolina
23 My Commission Expires: 7/13/14
24
25

3508

WITNESSES

Pitts/HCPD

ARREST WARRANT NO.

1742833 CDR: 0116 16-03-0010,0020

1742842 CDR: 0139 16-11-0330(A)

DOA: 4/14/05

ACTION OF GRAND JURY

TRUE BILL

Cardyn A Bowden AUG 25 2005
Foreman of Grand Jury

VERDICT

Count 1 Guilty

Count 2 Guilty

Johnny Marwin Chestnut 11/16/08
Foreman of Petit Jury Date:

DOCKET NO. 2005-GS-26-2927

The State of South Carolina,

County of Horry

JGH 77099

COURT OF GENERAL SESSIONS

AUGUST TERM 2005

THE STATE

vs.

STEPHEN C. STANKO W/M

DOB:

SSN:

Atty:

Indictment for

COUNT 1: MURDER

COUNT 2: ARMED ROBBERY

Page

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

COUNTY OF HORRY)

COUNT ONE: MURDER
COUNT TWO: ARMED ROBBERY

At a Court of General Sessions convened on August 25, 2005, the Grand Jurors of Horry County present upon their oath:

COUNT ONE: MURDER

(CDR: 0116 16-03-0010,0020)

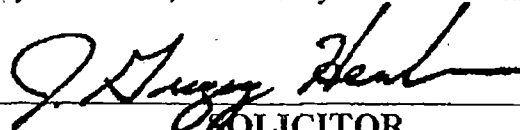
That STEPHEN C. STANKO did in Horry County, on or about the 8th day of April, 2005, willfully, feloniously, and intentionally, with malice aforethought, kill the victim, Henry Lee Turner, by means of shooting the victim with a handgun in the chest and back, and the victim did die as a proximate result thereof in Horry County on or about April 8, 2005, in violation of Section 16-3-10, S. C. Code of Laws, 2004, as amended, and the Common Law of South Carolina.

COUNT TWO: ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That STEPHEN C. STANKO did in Horry County on or about the 8th day of April, 2005, while armed with a deadly weapon, to wit: a Taurus .357 Magnum caliber revolver and/or a Derringer handgun, take and carry away goods or monies of the victim, Henry Lee Turner, from the immediate presence of Henry Lee Turner, to wit: a Mazda truck, a cell phone, a Taurus .357 Magnum caliber revolver and /or a Derringer handgun, in violation of Section 16-11-330(A), S. C. Code of Laws, 2004, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



PROSECUTOR

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) INDICTMENT 2005-GS-26-2927
 COUNTY OF HORRY)

STATE OF SOUTH CAROLINA)
)
)

VS.)

ORDER APPOINTING COUNSEL
 (Death Penalty Case)

STEPHEN C. STANKO,)
)
)

DEFENDANT.)
)
)

NOV 28 11:28 AM '06
 COURT

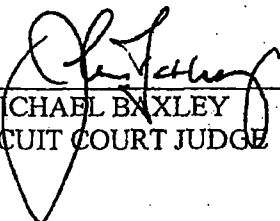
The State of South Carolina has served a Notice of Intent to Seek the Death Penalty in the above-captioned matter pursuant to S. C. Code of Laws, as amended. I find that it is necessary pursuant to Section 16-3-26(B) of the South Carolina Code of Laws, 1976, as amended, for counsel to be appointed in this matter. A hearing was held on November 15, 2006, at the Georgetown County Courthouse for the purpose of appointing counsel. Pursuant to said hearing, it is hereby

ORDERED that William I. Diggs, Esquire, is appointed to serve as first chair in the defense of Defendant Stephen C. Stanko in the above matter. The appointment of second chair in the defense of the defendant is taken under advisement by the Court.

AND IT IS SO ORDERED.

Hartsville, South Carolina

November 21, 2006


 J. MICHAEL BAXLEY
 CIRCUIT COURT JUDGE

South Carolina Commission on Indigent Defense

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 attorney'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	travelling 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 stankø 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 coming 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	travel to 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	10.00	0.00

12/1/11

South Carolina Commission on Indigent Defense

go over the exhibits for trial

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 computer Juror questionnaire 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 getting 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	meeting 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 from the Hermis company regarding Stanko's Pat Scan	3.00	0.00
97	10-31-09	preparing and e-malling 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
100	11-04-09	discuss the blair hearing with co counsel and client	1.50	0.00
101	11-04-09	Blair hearing in front of judge John and juror list	0.00	2.00
102	11-05-09	prepare the witness list and the exhibits list	1.50	0.00
103	11-05-09	organize the experts testimony from the first trial	3.00	0.00
104	11-05-09	meeting with Evelyn Califf discuss the case and the witness list she has, discuss her strategy	1.50	0.00
105	11-06-09	travel to conway and back to office	1.00	0.00
106	11-06-09	jury panel day	0.00	4.00
107	11-06-09	getting the 26 panels ready for monday each juror with their questionnaire and any questions answers during the panel selection	4.00	0.00
108	11-07-09	meeting with Dr. Thrasher and Dr. Albinak and the co-counsel discuss the testimony from last trial and prepare for this trial	2.00	0.00
109	11-08-09	searching case law regarding voir dire and preparing a note book for monday court	4.00	0.00
110	11-09-09	travel to conway and back to office	1.00	0.00
111	11-09-09	Jury selection	0.00	9.00
112	11-09-09	looking the panels for tommorrow making notes	4.00	0.00
113	11-10-09	travel to conway and back to office	1.00	0.00
114	11-10-09	jury selection	0.00	8.00
115	11-10-09	review the panels for next morning and reseach for change of venue motion	5.00	0.00
116	11-11-09	travel to conway and back to office	1.00	0.00
117	11-11-09	jury selection	0.00	9.00
118	11-11-09	research about change of venue motion and review the juror answers for court in the morning	3.00	0.00
119	11-12-09	travel to conway and back to office	1.00	0.00
120	11-12-09	jury selection	0.00	8.00
121	11-12-09	reseach about change of venue motion, prepare the argument on change of venue motion	2.00	0.00
122	11-12-09	travel to conway and back to office	1.00	0.00

3513

South Carolina Commission on Indigent Defense

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 experts witnesses that will testify in this case Dr. Gur ; Dr. Wu; Dr. Albinak 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 discussing 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 first 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		258.49106.50	

Defendant's Pretrial Motion # 1

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 The State of South Carolina)
)
 v.)
)
 Stephen Christopher Stanko,)
)
 Defendant.)

COURT OF GENERAL SESSIONS
 FIFTEENTH JUDICIAL CIRCUIT
 INDICTMENT 2005-GS-26-2927

MOTION TO DECLARE
§ 17-24-10 UNCONSTITUTIONAL
 (Conclusive Presumption #

2009 SEP 25 PM 4:30
 MELANIE HUGGINS
 CLERK OF COURT
 Horry County

COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 17-24-10 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the statute contains an unconstitutional conclusive presumption that if one can distinguish between moral or legal right from moral or legal wrong in one area of the

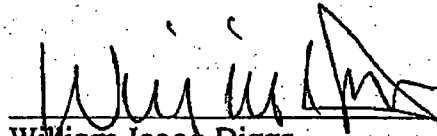
¹ S.C. Code Ann. § 17-24-10 reads as follows:

- (A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.
- (B) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.
- (C) Evidence of a mental disease or defect that is manifested only by repeated criminal or other antisocial conduct is not sufficient to establish the defense of insanity.

brain, one maintains the free will to act accordingly as a result of executive analysis occurring in a distinct and different area of the brain, notwithstanding physical defects in the latter existing either in the form of missing volumetric mass or low brain activity or function.


Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)

v.)

Stephen Christopher Stanko,)

Defendant.)

MOTION TO DECLARE
§ 17-24-10 UNCONSTITUTIONAL
(Conclusive Presumption #2)

RECEIVED
CLERK OF COURT
MELANIE HUGHINS
SEP 25 PM 4:30
Horry County

COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 17-24-10 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the statute contains an unconstitutional conclusive presumption that if one can distinguish between moral or legal right from moral or legal wrong in any area of the

¹ S.C. Code Ann. § 17-24-10 reads as follows:

(A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.

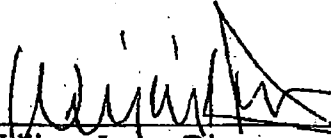
(B) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

(C) Evidence of a mental disease or defect that is manifested only by repeated criminal or other antisocial conduct is not sufficient to establish the defense of insanity.

brain, under any circumstances, one is guilty of criminal conduct under the circumstances presented in this case, notwithstanding the presence of physical defects in the brain in the form of missing volumetric mass or low brain activity.

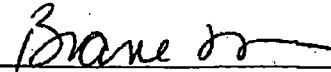
Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

Defense Pretrial Motion # 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)

v.)

Stephen Christopher Stanko,)

Defendant.)

MOTION TO DECLARE
§ 17-24-10 UNCONSTITUTIONAL
(Arbitrary Factor #1)

RECEIVED
CLERK OF COUNTY
HUGGINS
SEP 25 PM 4:30
Horry County

COMES NOW THE UNDERSIGNED, who would give notice of his

intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 17-24-10 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the statute contains an unconstitutional arbitrary factor that allows the prosecution to establish "malice aforethought" as a requisite element of murder based solely on

¹ S.C. Code Ann. § 17-24-10 reads as follows:

(A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.

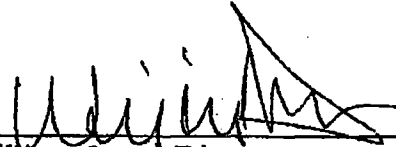
(B) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

(C) Evidence of a mental disease or defect that is manifested only by repeated criminal or other antisocial conduct is not sufficient to establish the defense of insanity.

the conduct of the accused, while the statute denies the accused the ability to establish insanity; or a mental disease, defect, or illness, based solely on the conduct of the accused.

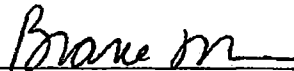
Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

Defense Pretrial Motion # 4

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)

v.)

Stephen Christopher Stanko,)
)
Defendant.)

MOTION TO DECLARE
§ 17-24-10 UNCONSTITUTIONAL
(Arbitrary Factor #2)

SEP 25 PM 1:30
CLERK OF COURT
HURRY COUNTY

COMES NOW THE UNDERSIGNED, who would give notice intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 17-24-10 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the statute contains an unconstitutional arbitrary factor that allows the prosecution to establish "malice aforethought" as a requisite element of murder, based solely on

¹ S.C. Code Ann. § 17-24-10 reads as follows:

(A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.

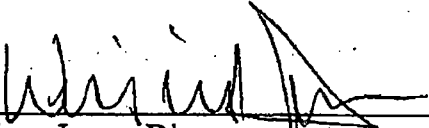
(B) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

(C) Evidence of a mental disease or defect that is manifested only by repeated criminal or other antisocial conduct is not sufficient to establish the defense of insanity.

the conduct of the accused, without requiring any corroborative evidence that the brain function of the accused at the time of the alleged criminal act, included the capacity to form the intent to commit malicious acts and the executive analysis to willingly act thereon.

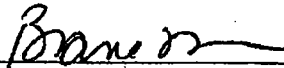
Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

Defense Pretrial Motion # 5

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)

v.)

Stephen Christopher Stanko,)

Defendant.)

MOTION TO DECLARE
§ 17-24-10 UNCONSTITUTIONAL
(Arbitrary Factor #4)

FILED
WILLIE HUGHES
CLERK OF COURT
ZIM SEP 25 11 4:30
Horry County

COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 17-24-10 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the statute is arbitrary and violates due process of law because it labels "insanity" as affirmative defense thus shifting to the accused the burden of proof on each element

¹ S.C. Code Ann. § 17-24-10 reads as follows:

(A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.

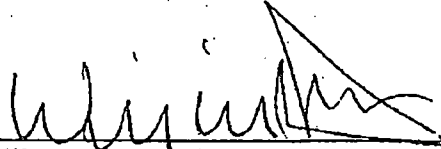
(B) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

(C) Evidence of a mental disease or defect that is manifested only by repeated criminal or other antisocial conduct is not sufficient to establish the defense of insanity.

of the defense. This relieves the prosecution from proving each element of the offenses charged.


Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

Defense Pretrial Motion # 6

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)

v.)

Stephen Christopher Stanko,)

Defendant.)

MOTION TO DECLARE
§ 17-24-20 UNCONSTITUTIONAL
(Arbitrary Factor)

FILED
CLERK OF COURT
HUGGINS
SEP 25
PH 4:30
HORRY COUNTY

COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 17-24-20 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15.¹

¹ **§ 17-24-20. Guilty but mentally ill; general requirements for verdict.**

(A) A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.

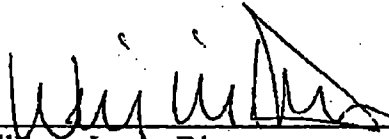
(B) To return a verdict of "guilty but mentally ill" the burden of proof is upon the State to prove beyond a reasonable doubt to the trier of fact that the defendant committed the crime, and the burden of proof is upon the defendant to prove by a preponderance of evidence that when he committed the crime he was mentally ill as defined in subsection (A).

(C) The verdict of guilty but mentally ill may be rendered only during the phase of a trial which determines guilt or innocence and is not a form of verdict which may be rendered in the penalty phase.

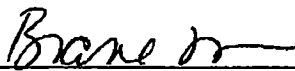
Defense Pretrial Motion # 6

Said motion is based on the grounds that the statute is arbitrary and violates due process of law because it contains an illusory defense of, "Guilty But Mentally Ill." Said defense is illusory because even if proved to exist by an accused by a preponderance of the evidence, the accused may still be sentenced to death under South Carolina law.

Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS

William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC

Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

(D) A court may not accept a plea of guilty but mentally ill unless, after a hearing, the court makes a finding upon the record that the defendant proved by a preponderance of the evidence that when he committed the crime he was mentally ill as provided in Section 17-24-20(A).

HISTORY: 1984 Act No. 396, § 2; 1988 Act No. 323, § 2; 1989 Act No. 93, § 2.

Defense Pretrial Motion # 7

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)

v.)

Stephen Christopher Stanko,)
)
Defendant.)

MOTION TO DECLARE
§ 17-24-20 UNCONSTITUTIONAL
(Conclusive Presumption)

CLERK OF COURT
MAY 25 11:30 AM
HORRY COUNTY

COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 17-24-20 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

¹ § 17-24-20. Guilty but mentally ill; general requirements for verdict.

(A) A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.


(B) To return a verdict of "guilty but mentally ill" the burden of proof is upon the State to prove beyond a reasonable doubt to the trier of fact that the defendant committed the crime, and the burden of proof is upon the defendant to prove by a preponderance of evidence that when he committed the crime he was mentally ill as defined in subsection (A).

(C) The verdict of guilty but mentally ill may be rendered only during the phase of a trial which determines guilt or innocence and is not a form of verdict which may be rendered in the penalty phase.

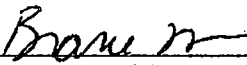
Said motion is based on the grounds that the statute contains an unconstitutional conclusive presumption that if one can distinguish between moral or legal right from wrong in one area of the brain, the accused is guilty, notwithstanding the absence of ability to perform executive analysis which would occur in a different area of the brain but does not, due to physical defects (in the latter area of the brain) which exist either in the form of missing volumetric mass or low or dead brain activity or tissue.

Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS


William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC


Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

(D) A court may not accept a plea of guilty but mentally ill unless, after a hearing, the court makes a finding upon the record that the defendant proved by a preponderance of the evidence that when he committed the crime he was mentally ill as provided in Section 17-24-20(A).

HISTORY: 1984 Act No. 396, § 2; 1988 Act No. 323, § 2; 1989 Act No. 93, § 2.

Defense Pretrial Motion # 8

STATE OF SOUTH CAROLINA)
)
COUNTY OF HÖRRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)
)

v.)
)

Stephen Christopher Stanko,)
)
Defendant.)

MOTION TO DECLARE
§ § 16-3-10 et seq.
UNCONSTITUTIONAL
(Incomplete Evidentiary Basis)

CLERK OF COURT
MELANIE HUGGINS
SEP 25 4:30 PM
HÖRRY COUNTY

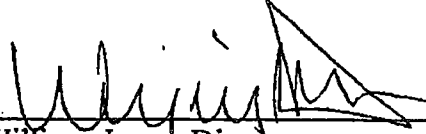
COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § § 16-3-10 et seq. unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the entire statutory complex is arbitrary and violates due process because it allows for a conviction of an accused based on an incomplete evidentiary base which excludes evidence of brain function in the determination of guilt or innocence which is necessary to form an accurate assessment of mental health and to render a reliable verdict.

¹ S.C. Code Ann. § 16-3-10, defines "Murder" states as follows: "Murder" is the killing of any person with malice aforethought, either express or implied.

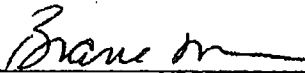
Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

Defense Pretrial Motion # 9

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT 2005-GS-26-2927

The State of South Carolina)

v.)

Stephen Christopher Stanko,)

Defendant.)

MOTION TO DECLARE
S.C. § 16-3-10 UNCONSTITUTIONAL
(Vagueness)

SEP 25 11:30 AM
CLERK OF COURT
JUDICIAL

COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. § 16-3-10 unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the arbitrary and vague and violates due process because it does not define the term "malice aforethought," and fails to acknowledge that malice is a complex concept that requires multiple brain functions or a number of different brain activities and the statute fails to identify which brain functions are

¹ § 16-3-10. "Murder" defined.

"Murder" is the killing of any person with malice aforethought, either express or implied.

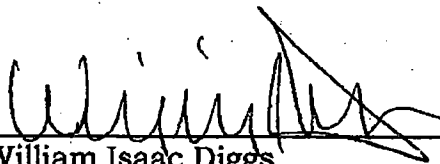
HISTORY: 1962 Code § 16-51; 1952 Code § 16-51; 1942 Code § 1101; 1932

Code § 1101; Cr. C. '22 § 1; Cr. C. '12 § 135; Cr. C. '02 § 108; G. S. 2453;

required by law to exist sufficiently to constitute the statutory element of murder of "malice aforethought."

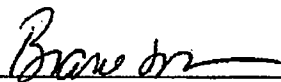
Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 The State of South Carolina)
)
 v.)
)
 Stephen Christopher Stanko,)
)
 Defendant.)

COURT OF GENERAL SESSIONS
 FIFTEENTH JUDICIAL CIRCUIT
 INDICTMENT 2005-GS-26-2927

MOTION TO DECLARE
§ § 16-3-20 et seq.
UNCONSTITUTIONAL
 (Hypofrontality)

FILED
 COUNTY
 2005 Sep 25 PM 4:38
 CLERK OF COURT

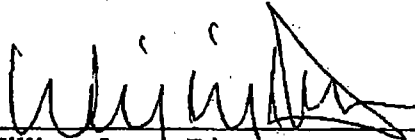
COMES NOW THE UNDERSIGNED, who would give notice of his intent to move before the Honorable Steven H. John, Judge, for the Fifteenth Judicial Circuit for the Court's proper Order declaring S.C. Code Ann. §§ 16-3-10 et seq. unconstitutional as being in violation of the Eighth and Fourteenth Amendments to the United States Constitution and S.C. Const. Art I, § 15. ¹

Said motion is based on the grounds that the entire statutory complex is arbitrary and violates due process because it allows for the death sentence to be imposed upon an accused who has hypofrontality, who possesses no more moral culpability than a juvenile or an adult who suffers from mental retardation.

¹ S.C. Code Ann. § 16-3-10, defines "Murder" states as follows: "Murder" is the killing of any person with malice aforethought, either express or implied.

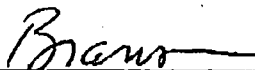
Respectfully submitted

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243

WILLIAMS LAW FIRM, LLC



Brana J. Williams
1115 3rd Avenue
Conway, SC 29526
843-248-5100

ATTORNEYS FOR THE DEFENDANT

This 25 day of September, 2009
Myrtle Beach, South Carolina

Ad pending

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
INDICTMENT 2005-GS-26-2927

STATE OF SOUTH CAROLINA)

VS.)

STEPHEN C. STANKO,)

DEFENDANT.)

ORDER APPOINTING COUNSEL
(Death Penalty Case)

CLERK OF COURT
NOV 21 2006 PM 6:28


The State of South Carolina has served a Notice of Intent to Seek the Death Penalty in the above-captioned matter pursuant to S. C. Code of Laws, as amended. I find that it is necessary pursuant to Section 16-3-26(B) of the South Carolina Code of Laws, 1976, as amended, for counsel to be appointed in this matter. A hearing was held on November 15, 2006, at the Georgetown County Courthouse for the purpose of appointing counsel. Pursuant to said hearing, it is hereby

ORDERED that William I. Diggs, Esquire, is appointed to serve as first chair in the defense of Defendant Stephen C. Stanko in the above matter. The appointment of second chair in the defense of the defendant is taken under advisement by the Court.

AND IT IS SO ORDERED.

Hartsville, South Carolina

November 21, 2006



J. MICHAEL BAXLEY
CIRCUIT COURT JUDGE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
)
 STATE OF SOUTH CAROLINA)
)
)
 vs.)
)
 STEPHEN C. STANKO)
 _____)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT 2005-GC-26-2927

ORDER APPOINTING
 SECOND CHAIR COUNSEL
 (Death Penalty Case)

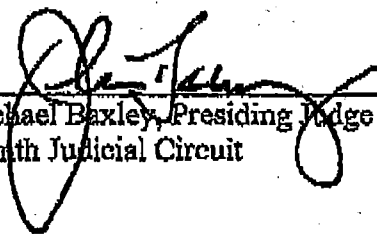
WHEREAS, the State of South Carolina has served a Notice of Intent to Seek the Death Penalty in the above referenced matter pursuant to South Carolina Law, and

WHEREAS, pursuant to Section 16-3-26(B) of South Carolina Code of Laws, 1976, as amended, it is necessary for second chair defense counsel to be appointed in this matter, and

WHEREAS, this Court finds that Attorney Brana J. Williams is capable, qualified, and willing to serve in this important capacity; therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Brana J. Williams, Esquire, of the Horry County Bar, is appointed as second chair in the defense of defendant Stephen C. Stanko in this matter.

AND IT IS SO ORDERED.



 J. Michael Baxley, Presiding Judge
 Fifteenth Judicial Circuit

February 23, 2007
 Hartsville, South Carolina

HORRY COUNTY FILED
 DECEMBER 8 PM 1:10
 CLERK OF COURT



STATE OF SOUTH CAROLINA COUNTY OF HORRUM IN THE COURT OF GENERAL SESSIONS
 COUNTY OF HORRUM APR 28 PM 2:52 INDICTMENT NO. 2005-GS-26-2927
 STATE MELANIE HUGGINS MOTION AND TO NOTICE OF MOTION
 versus CLERK OF COURT TO REVIEW STATUS OF COUNSEL FOR
 STEPHEN C. STANKO DEFENDANT IN LIGHT OF POST
 Defendant. CONVICTION RELIEF ACTION IN
 COMPANION CASE
 I 742833

The State, through J. Gregory Hembree, Solicitor of the Fifteenth Judicial Circuit, moves this Court to review the status of William I. Diggs, present counsel for the defendant, for conflict of interest and waiver of attorney-client privilege, as a result of the Post Conviction Relief petition filed by and/or on behalf of the defendant in the Georgetown County case of State v. Stephen C. Stanko in which the defendant was found guilty and sentenced to death. In support of the motion, the State would respectfully show to the Court:


1. William I. Diggs, Esquire, represented the defendant, as first chair, in the Georgetown County capital case in which the defendant was convicted and sentenced to death;
2. the defendant's case was affirmed on direct appeal by the South Carolina Supreme Court;
3. application for cert. was denied by the United States Supreme Court;
4. the Defendant filed a petition for Post Conviction Relief alleging, in part, the ineffective assistance of William I. Diggs, Esquire;
5. Rule 1.7 (a)(2) of Rule 407, SCACR, identifies a conflict of interest where "there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to . . . a former client . . . or by a personal interest of the lawyer.";
6. Rule 1.7 (b)(1) of Rule 407, SCACR, states this conflict of interest may only be waived if "the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;"
7. Section 17-27-130, Code of Laws of South Carolina, 1976, as amended, state, in pertinent part, "Where a defendant alleges ineffective assistance of prior trial counsel . . . as a ground for post-conviction relief . . . the applicant shall be deemed to have waived the attorney-client privilege with respect to both oral and written communications between counsel and defendant, and between retained or appointed experts and the defendant, to the extent necessary for prior counsel to respond to the allegation. This waiver of the attorney-client privilege shall be deemed automatic upon filing of the allegation alleging ineffective assistance of prior counsel and the court need not enter an order waiving the privilege. Thereafter, counsel alleged to have been ineffective is free to discuss and disclose any aspect of the representation with representatives of the State for the purpose of defending against the allegations of ineffectiveness, to the extent necessary for prior counsel to respond to the allegation."(emphasis added);

Page Two

- 8. the State submits a non-waivable conflict of interest exists between William I. Diggs, Esquire, and the defendant, in that the defendant has, by the filing of his Post Conviction Relief petition, already waived attorney-client privilege in connection with the companion case;
- 9. William I. Diggs, Esquire, has represented to the Court in connection with the present case that he intends to offer a similar defense and similar mitigation utilizing the same experts from the companion case; and
- 10. waiver of the attorney-client privilege in the companion case would materially limit the representation of William I. Diggs, Esquire, in the present case.

Based upon the above, the State moves this Court to review the status of William I. Diggs, Esquire, as counsel for the defendant in the above captioned case and seeks a hearing so that this matter may be heard as soon as is practicable.

I SO MOVE:


 J. Gregory Hembree, Solicitor
 Fifteenth Judicial Circuit
 Post Office Box 1276
 Conway, South Carolina 29528
 (843) 915-8609

April 28, 2009

Conway, South Carolina

IF SO, WHEN? _____

NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please provide the correct information in the space provided below.

INFORMATION BELOW WILL BE MADE AVAILABLE ONLY TO OFFICERS OF THE COURT

HOME PHONE # _____	BUSINESS PHONE # 8 _____	SPOUSE'S BUSINESS PHONE # _____	EMERGENCY PHONE # _____	E-MAIL ADDRESS _____
-----------------------	-----------------------------	------------------------------------	----------------------------	-------------------------

JUROR RESPONSE SECTION INSTRUCTIONS

Retain the top portion of this form for your reference and return the bottom portion of the form along with any required affidavits or written statements in the self-addressed envelopes provided.
NOTE: Unless the Clerk of Court otherwise notifies you, you must report for jury duty as requested.

<p>DISQUALIFICATIONS</p> <p><input type="checkbox"/> I am not a U.S. citizen</p> <p><input type="checkbox"/> I am not a resident of this country. (Note correct address above.)</p> <p><input type="checkbox"/> I cannot read, write, speak, or understand the English language. Translator's name and telephone #: _____</p> <p><input type="checkbox"/> I have less than a sixth grade education or its equivalent.</p> <p><input type="checkbox"/> I have a mental or physical condition that prevents me from serving as a Juror. (Doctor's statement required)</p> <p><input type="checkbox"/> I have been convicted in a state or federal court of a crime that carries a sentence of more than one year of imprisonment and I have not been pardoned or given amnesty for that conviction. List offenses, when and where convicted: _____</p> <p><input type="checkbox"/> I am a clerk of court, deputy clerk of court, constable, sheriff, commissioned law enforcement officer, probate judge, county commissioner, magistrate, or county officer, or I am employed within the walls of a courthouse. Occupation: _____</p> <p><input type="checkbox"/> I have served on a circuit court jury within this calendar year. Date of service: _____ County: _____</p>	<p>EXEMPTIONS</p> <p><input type="checkbox"/> I am 65 years of age or older and wish to be excused. (If you do not wish to serve on a jury, You may telephone the clerk of court to be excused. Unless you are excused by the clerk of Court prior to the term for which you are summoned, you must report for jury duty.)</p> <p><input type="checkbox"/> I am the primary caretaker of a disabled person or a person aged 65 or older who cannot care for himself. ***</p> <p><input type="checkbox"/> I have legal custody and duty of care of a child under the age of seven and I cannot provide Adequate childcare while serving as a juror. *** [When you return this form, you must also send an affidavit (notarized statement) stating that you have legal custody and duty of care of a child under the age of seven and you are unable to provide adequate childcare while performing jury duty.]</p> <p><input type="checkbox"/> I am a guard, keeper, employee or other officer at a state penitentiary.</p> <p><input type="checkbox"/> I have served on a circuit court jury during the previous four calendar years. Date of Service: _____ County: _____ Jury Type: <input type="checkbox"/> Circuit Court <input type="checkbox"/> Grand Jury</p> <p><input type="checkbox"/> I am a student or a school employee and wish to be transferred to a later date that will not Conflict with my school term. Date Available for Service: _____ [When you return this form, you must also send evidence of school enrollment or Employment.] ***Affidavit (notarized statement) must be returned with this form attesting to the above statements ***</p>
---	--

I HAVE READ THE CONDITIONS FOR DISQUALIFICATION AND EXEMPTION ABOVE AND NONE OF THE CONDITIONS LISTED APPLY TO ME.
 NOTE: THE FURNISHING OF FALSE OR MISLEADING INFORMATION OR THE FAILURE TO FURNISH INFORMATION TO THE COURT MAY SUBJECT YOU TO PENALTIES AS PRESCRIBED BY LAW.

YOUR SIGNATURE *Bruce O'Ban*

NOTE: Participation of all eligible citizens as jurors is encouraged. If you need specific accommodations, courthouse staff will be available for assistance.

12

480

JUROR QUESTIONNAIRE

YOU MUST ANSWER TO THE BEST OF YOUR KNOWLEDGE THE FOLLOWING QUESTIONS AND RETURN ALONG WITH THE JUROR QUESTIONNAIRE CARD TO THE CLERK OF COURT

1. Name: Bonnie Smith O'Guin
First Middle/Maiden Last
2. Date of Birth 8 [REDACTED] Age: [REDACTED] Sex: [REDACTED] Race: [REDACTED]
3. Birthplace: [REDACTED]
4. [REDACTED] [REDACTED] KA Myrtle Beach, SC 29588
5. Length of Time at present address: 1 yr 4 months
6. How long have you lived in Horry County? 5 yrs
7. Telephone Numbers: (Home) [REDACTED] (Business) [REDACTED]
 (Cell) [REDACTED]
8. In the past 10 years, list other cities you have lived in and how long you lived at each:

City/Town	No. of Years
<u>Cameron, NC</u>	<u>10</u>
9. Place of Employment: Alsco Linen, Little River, SC
10. Current job title or description: Exec Sales Consultant
 Business Hours: 7:30-5:00 Length of Present Employment: 3 yrs
11. Please list your occupations or employment for the past 5 years:
Alsco - 3 yr
JT Davenport - 8 yrs
12. Marital Status: a) Married b) Single c) Divorced d) Spouse deceased
13. Spouse's Name: Larry O'Guin

14. Spouse's Employer: unemployed
 Current Job Title or Description: _____
 Length of Present Employment: _____
 What other types of jobs has your spouse held? Construction Super

15. Please provide the following information about your children/stepchildren, if any:
 (Name / Sex / Age / School or Occupation)

- a. Brandon Thomas - m - 35 - Construction
- b. Shane Thomas - m - 27 - Production worker
- c. Justin D'Guin - m - 27 - Disabled
- d. Adam D'Guin - m - 25 - Lawn Maint.
- e. Morgan Keith - F - 22 - housewife
- f. _____

16. Please provide the following information about your brothers and sisters, if any?
 Name / Sex / Age / School or Occupation

- a. Coronie Atkins - 52 - F - housewife
- b. Billie Smith - F - 47 - "
- c. _____
- d. _____
- e. _____
- f. _____

17. Please give your educational background. Include how far you went in school, the names of any technical or trade schools attended; any colleges or graduate schools you attended, together with degrees received, if any:

High School Diploma

18. Please give your spouse's educational background:

High School Diploma

19. Have you ever served in the military? No If yes, please give the following information:

Branch: _____ Years of Service: _____
 Highest grade or rank attained: _____
 Duties: _____
 Year Discharged: _____ Type of Discharge: _____
 Did you ever serve in the military police? _____

20. Do you have any difficulty in reading or writing? If yes, explain: No
21. Do you have any difficulty with sight or hearing, or do you have any other disability that would make jury service a hardship for you? No If yes, please explain:
22. Are you currently taking any medication? yes If yes, please give the name of the medication and the reason you take it. Plavis - blockage
23. Are you or any family members currently being treated for a medical illness which would prevent or impair your jury service? No If yes, please explain:
24. Have you worked in a mental health facility or hospital of any kind? No If yes, please describe:
25. Have you ever taken any courses in the fields of psychiatry or psychology? No If yes, please list when and where
26. Do you have any moral, religious, or personal beliefs that would prevent you from sitting as a juror in criminal case? No
27. To which civic clubs, societies, professional associations, or other organizations do you belong? NMB Chamber
28. Are you or your spouse a member of (or have you ever been a member of) any neighborhood, local, state, or nationwide victim rights, crime prevention or crime watch organizations, or any law enforcement support organization? No If yes, please name the organizations.
29. What are your hobbies? Boating, motorcycles,

30. What is your primary source of news? Television Newspaper _____ Radio _____
Magazine _____ Internet _____ Personal Conversation _____
Other _____
31. Do you subscribe to and/or regularly read a newspaper? no If yes, which one(s)?

32. Have you ever been indicted, or convicted (including probation, deferred adjudication, conditional discharge, etc.) of a crime other than a traffic ticket? no
If yes, state what crime and when indicted or convicted:

33. Do you personally know anyone who has been to prison, or who is in prison?
yes

34. Have you ever been a witness or testified in a criminal case? no
35. Have you or any member of your immediate family ever worked with any program involved with the prevention of crime, the apprehension or punishment of offenders, or the rehabilitation of persons convicted of a crime?
no

36. Have you, or any immediate family member ever been the victim of a crime?
yes

37. Have you or any member of your immediate family ever had any matters whatsoever handled by any solicitor or prosecutor's office?
yes

38. Have you or any member of your immediate family ever had any matters whatsoever handled by any public defender's office? yes

39. Have you ever served on a Grand Jury? no
40. Have you ever served as a juror in a civil case? no
41. Have you, your spouse, or any member of your immediate family presently or in the past, been a member or employee of a law enforcement agency or organization? (Example: city, county, state or federal police officer; constable, deputy sheriff, ranger, department

of public safety, auxiliary or reserve of any such organization or agency?) If yes, please give name and describe. No

42. Do you know or have you heard of either of the defense attorneys in this case, William I. Diggs or Brana J. Williams? No If yes, explain _____

43. Do you know or have you heard of the prosecutors in this case, Solicitor, Gregory Hembree, and Deputy Solicitor, Fran Humphries? No If yes, explain _____

44. Do you know or have you heard of the defendant in this case, Stephen C. Stanko? Yes or any of the defendant's family? _____ If yes to either, in what capacity? News

45. Did you know the victim, Henry Turner, during his lifetime? No if yes, in what capacity? _____

46. Do you know any of the victim's family members? No If yes, in what capacity? _____

47. Do you know, or believe you know, anything about the facts or purported facts of this case, either from the newspaper, television, radio, internet, or from any other source?

No

If yes, from what source? _____

48. Do you currently have any personal problem that would prevent you from giving your full attention to the testimony during the trial? No If yes, please explain.

49. Is there any information about you which you feel the judge and the attorneys should know in reference to your ability to serve as a juror in this case that has not been set forth above? no If yes, please explain.

50. Do you believe that there is be any reason which would make it difficult or impossible for you to be completely fair and impartial to both sides in this case? no If yes, please explain.

I hereby swear or affirm that all the answers given on this questionnaire are true, correct, and complete to the best of my knowledge.

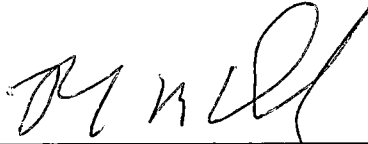
Dated: 9-24-09

Bonnie O'Shea
(Signature of Juror)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with 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 5th, 2012



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

Steven H. John, Circuit Court Judge

F. [unclear]

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MAY - 2 2012

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal 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 5th day of May, 2012.

Emily Bryson
Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 5th day of May, 2012.

Raunen E. Case (L.S.)
Notary Public for South Carolina

My Commission Expires: August 23, 2014.