

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

COURT OF GENERAL SESSIONS
FOURTEENTH JUDICIAL CIRCUIT

State of South Carolina,

v.

Richard Alexander Murdaugh,

Defendant.

Indictment Nos. 2022-GS-15-00592, -593,
-594, and -595

MOTION TO COMPEL

Defendant Richard Alexander Murdaugh, through undersigned counsel, pursuant to Rule 5, SCCRP, *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972), hereby moves to compel the State to produce the following materials:

1. **Any and all testing results of Paul and Maggie's clothing, including DNA, GSR.**

- a. The State has produced two lengthy DNA reports and a gunshot residue [GSR] report. However, none of these reports indicate results of any analysis of Maggie and Paul's clothing. If the State has conducted any such analysis, then this information must be provided under Rule 5. If the State has not conducted any such analysis, the State should be required to notify the defense, as this failure to conduct any DNA analysis of Paul and Maggie's clothing would be convincing evidence that the State's investigation has only been solely focused on the Defendant since the night of the murders.

2. **GSR testing lab results and bench notes, providing the specific number of particles removed from Defendant's shirt, shorts and hands.**

- a. The State has produced a report indicating that GSR was found on Defendant's shirt and shorts, but no GSR found on Defendant's hands or shoes. However, this report does not quantify the amount of GSR found. The State has produced additional notes from investigators and lab personnel stating that three GSR articles were obtained from Defendant's shirt, three GSR particles from Defendant's shorts, one particle¹ from his hands, and no particles from

¹ This finding of one particle is inconsistent with the GSR report concluding that no GSR was found on the Defendant's hands. This inconsistent is most attributed to the minimum threshold particle requirements needed to state that there is the presence of GSR. Most labs do not report out a positive finding unless there are at least 3 particles.

Defendant's shoes. Furthermore, the GSR lab analysis further states that the amount of GSR found on Defendant is consistent with transfer particles from a shotgun that the Defendant retrieved while he was waiting for emergency personnel to arrive at the scene after he called 911. Defendant has requested the specific laboratory analysis documenting the specific particles found on Defendant's clothing and person. This information is necessary so that Defendant's expert can assess whether the amount of GSR found on the Defendant and his clothing is inconsistent with the State's theory that the Defendant shot his son Paul at close range with a shotgun. The State has indicated that the requested information will be produced.

3. Cell phone forensic analysis.

- a. The State has produced an external hard drive containing data from cell phone downloads from numerous cell phones. The State also indicated certain cell phones were sent to the FBI for further analysis, in addition to the SLED cell phone analyst's examinations. Defense counsel has been informed that the State intends to rely upon its analysis of various artifacts within Maggie and Paul's phones as evidence of time of death. However, the State has not produced any such analysis and when questioned about the existence of such analysis, the State indicates that no final report has been issued. Defendant requests the Court set a deadline for the State to produce any such report in sufficient time for the defense forensic cell phone expert to review and analyze the data prior to trial.

4. Complete autopsy file.

- a. The State has obtained and produced the autopsy report and autopsy photos. However, the State does not have the pathologist's handwritten notes and diagrams which are commonly made during the course of an autopsy of shooting victims. The Defendant needs this information to provide to the defense pathologist for review.

5. Documents and information relating to the State's retained crime scene expert.

- a. The defense has been provided a final report, and one draft report, prepared by the State's retained crime scene expert. However, according to notes in the investigative file, there should be a third draft dated March 22, 2022. Defendant requests this draft, and all other drafts which have not been produced, so that a comparison can be made between the various versions of the retained expert's reports.
- b. Photographs of the forensic mannequins used by the State's retained expert (referenced as information considered in his analysis in the FINAL report).
- c. All emails between SLED and the State's retained crime scene expert.

6. **Documents and information relating to blood stain analysis performed or requested to be performed by all experts with whom the State consulted.**
 - a. Defendant seeks the production of any documents relating to any blood stain analysis performed, or requested to be performed, by the State from all persons with whom the State has consulted regarding blood stain pattern analysis on the Defendant's clothing. This includes any report, letters, notes, diagrams, photographs, computer reconstruction, demonstrative aid, or other items prepared or produced by or for such expert.
7. **Photos of Maggie's phone taken by Johnson CCSO and Dylan Hightower with the Colleton County Solicitor's office; these are photos of the phone when they found it on the side of the road.**
8. **All SLED lab bench notes relating to all forensic analysis conducted in this investigation.**
 - a. The State has produced various reports, and upon request, has produced bench notes and data underlying such reports. However, the State has not produced bench notes and underlying data for the GSR report, fingerprint analysis, or shoe and tire print analyses.
9. **Copies of any and all jail phone calls made by the Defendant, which the State intends to offer into evidence at trial.**
 - a. According to investigative notes, and the logs produced by Richland County, SLED and the Attorney General's Office have been listening and/or recording telephone calls made by the Defendant from jail. The State has not notified the defense if it intends to offer any of these calls into evidence. If so, the State is obligated under Rule 5 to provide these statements to the defense within 30 days upon receipt of the discovery request, and to supplement with any additional calls it intends to offer.
10. **Polygraph stim test and chart recordings for all polygraphs conducted in this investigation.**
 - a. SLED has conducted polygraph tests on Curtis Smith and three other individuals. Defendant requests the underlying test data so that his expert witness can assess whether the charts indicate deception and, as to Curtis Smith, assess the degree of deception that is indicated.

11. Audio and video recordings of Curtis Eddie Smith's interviews.

- a. There are at least two audio and video recordings of interviews with Eddie Smith that have not been produced: September 7, 2021 and September 14, 2021. Defense counsel is informed and believed that Smith makes statements about his involvement in the roadside shooting that are inconsistent with later statements. The State has indicated that Smith is expected to be a prosecution witness. Defendant is entitled to these prior statements under *Brady*.

12. Return for Google search warrant number 105.

- a. The State has produced a copy of a search warrant issued to Google in September 2022, approximately one month after Defendant was indicted. This search warrant seeks geofencing data from the Mozelle property and a nearby tract of land. However, the Defendant has not been provided a return to this warrant, nor has Defendant been provided any data produced by Google in response to this warrant.

13. SLED interoffice emails.

- a. There are numerous references to receiving interoffice emails in SLED's case notes. The State is required to either produce these emails to the defense or the Attorney General's office should review these emails and produce *Brady* material to the defense.

14. Colleton County Sheriff's Department and Fourteenth Circuit Solicitor's files, including electronically stored information.

- a. The defense has not been provided case notes and other investigative material from the Fourteenth Circuit Solicitor's Office or Colleton County Sheriff's Department, other than BWC recordings and photographs.

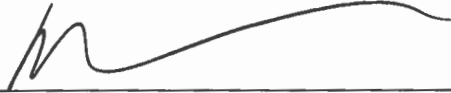
15. BWC of Debbie McMillian and Grant Candor.

- a. There are bodycam recordings of interviews with Debbie McMillan and Grant Candor, according to the investigative notes. However, no such recording has been produced.

Defendant respectfully requests the Court issue an Order compelling the State to produce the above information immediately, and no later than 10 days from the entry of the Order, and for such other and further relief as the Court deems appropriate.

[signature page to follow]

Respectfully submitted,



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Attorneys for Richard Alexander Murdaugh

October 17, 2022
Columbia, South Carolina.

OCT 17 2022 PM 3:30
COLLETON CO GS, REBECCA H. HILL

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

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) FOURTEENTH JUDICIAL CIRCUIT
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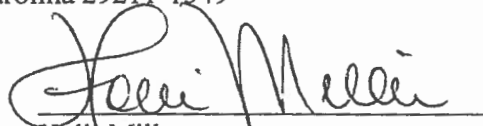
Richard Alexander Murdaugh,
Defendant.

CERTIFICATE OF SERVICE

I, Holli Miller, paralegal to the attorney for the Defendant, Richard A. Harpootlian, P.A., with offices located at 1410 Laurel Street, Columbia, South Carolina 29201, hereby certify that on October 17, 2022, I did serve by placing in the U.S. mail, first class postage affixed thereto (with a courtesy copy sent electronically), the following document to the below mentioned person:

Document: Defendant's Motion to Compel

Served: Creighton Waters, Esquire
Office of The Attorney General
Rembert C. Dennis Building
Post Office Box 11549
Columbia South Carolina 29211-1549
cwaters@scag.gov


Holli Miller

OCT 17 2022 PM3:30
COLLETON CO GS, REBECCA H. HILL