

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF COLLETON)	
State of South Carolina,)	Case Nos: 2022-GS-15-00592
)	2022-GS-15-00593
)	2022-GS-15-00594
v.)	2022-GS-15-00595
)	
Richard Alexander Murdaugh,)	STATE'S RESPONSE TO DEFENDANT'S
)	MOTION FOR A NEW TRIAL; AND
)	STATE'S MOTIONS TO STRIKE
Defendant.)	
)	

Richard Alexander Murdaugh (“Murdaugh”) was convicted for the murders of his wife Maggie Murdaugh and son Paul Murdaugh by a jury before this Court in Colleton County on March 2, 2023. This Court sentenced Murdaugh to consecutive sentences of life without parole on March 3, 2023. After filing a notice of appeal, and during the pendency of that appeal, Murdaugh filed in the Court of Appeals of South Carolina on September 5, 2023, a “Motion to Suspend Appeal and for Leave to File Motion for New Trial.” On October 17, 2023, the Court of Appeals granted the request to hold the appeal in abeyance and remanded the matter to this Court to permit Murdaugh to file his motion pursuant to Rule 29(b), SCCrimP. Murdaugh so filed with the Colleton County Clerk of Court on October 27, 2023.

Murdaugh broadly claims that he is entitled to a new trial based upon allegations that the Clerk of Court of Colleton County, Becky Hill, improperly attempted to influence the jury’s decision. In support of his claim, Murdaugh offers affidavits from one juror who participated in deliberations, one who was removed for dishonestly concealing her own improper communications about the case, and two hearsay affidavits from his counsel’s paralegal. Murdaugh additionally advances a sweeping conspiratorial theory about wholly irrelevant Facebook posts with scant evidence to support it. The State responds as follows:

I. LAW AND PROCEDURE: Colorable Claims of After-Discovered Improper External Influence on a Jury May Necessitate a Judicially-Conducted Inquiry to Confirm the Validity of the Verdict as Free from External Influence, through which Defendant Must Show Actual Prejudice.

The law permits, but skeptically receives motions for new trials based on after-discovered evidence, and never does the law permit highly motivated convicts to put their own jury on trial. “There can be no doubt that motions of this sort should be received with the utmost caution, because, as it is said by a learned judge, there are but few cases tried in which something new may not be hunted up, and also because it tends to perjury[.]” *State v. Mathis*, 174 S.C. 344, 177 S.E. 318, 320 (1934) (quoting *State v. David*, 14 S.C. 428, 432 (1881)). “[I]t would have a mischievous tendency, after all the evidence on the part of the state had been fully disclosed, to allow one, with his life in danger, an opportunity, by the assistance of confederates, to procure unprincipled witnesses to contradict the evidence on the part of the state, and thereby defeat the ends of justice.” *Id.* (quoting *State v. Harding*, 2 S.C.L. (1 Bay) 267 (1800)).

Nonetheless, criminal defendants have a right to a fair and impartial jury, and private communications or contact with jurors during a criminal trial about the matter pending before them may necessitate an evidentiary hearing and, if the defendant can show actual prejudice, a new trial. *State v. Kelly*, 331 S.C. 132, 502 S.E.2d 99 (1998); *see also Smith v. Phillips*, 455 U.S. 209, 215 (1982) (“This Court has long held that the remedy for allegations of juror partiality is a hearing in which the defendant has the opportunity to prove actual bias.”); *State v. Green*, 432 S.C. 97, 100, 851 S.E.2d 440, 441 (2020) (unanimously declining to adopt *Remmer v. United States*, 347 U.S. 227 (1954) and its presumptive prejudice standard in every instance of improper contact, and reversing the

lower court opinion that did so)¹. Not every inappropriate comment by a member of court staff to a juror rises to the level of constitutional error. *Green*, 432 S.C. at 100, 851 S.E.2d at 441; *State v. Cameron*, 311 S.C. 204, 207-08, 428 S.E.2d 10, 12 (Ct. App. 1993).² “Were that the rule, few trials would be constitutionally acceptable.” *Phillips*, 455 U.S. at 217. Additionally, jurors are presumed to follow the law as instructed to them, to include instructions of what constitutes proper evidence to consider in deliberations, and such instructions are usually deemed to have cured the erroneous exposure to improper evidence or argument. *State v. Grovenstein*, 335 S.C. 347, 353, 517 S.E.2d 216, 219 (1999).

Where a defendant knows or could have known of a constitutional issue at the time of trial, the defendant is obliged to timely raise that issue to the Court’s attention or else waive it on future appeals. *State v. Powers*, 331 S.C. 37, 42-43, 501 S.E.2d 116, 118 (1998); *State v. McWee*, 322 S.C. 387, 472 S.E.2d 235 (1996); *State v. Byram*, 326 S.C. 107, 113, 485 S.E.2d 360, 363 (1997); *State v. McWee*, 322 S.C. 387, 391, 472 S.E.2d 235, 238 (1996).

¹ To whatever extent Murdaugh may insist on *Remmer* as controlling, Federal courts are hardly consistent in interpreting and applying it. Compare *United States v. Frost*, 125 F.3d 346, 377 (6th Cir. 1997) (Holding that not all communications with jurors warrant a hearing and that the defendant must show that unauthorized contact created actual juror bias); *United States v. Johnson*, 954 F.3d 174, 179 (4th Cir. 2020) (If a defendant makes a threshold showing of a “credible allegation” that an unauthorized juror contact was made, they are entitled to a rebuttable presumption of prejudice and an evidentiary hearing to determine what actually transpired and whether what actually happened was harmless). The U.S. Supreme Court’s statement in *Smith v. Phillips* that defendant must prove actual bias abrogates *Remmer* to whatever extent it suggests otherwise. See *Smith*, 455 U.S. at 215-16 (remedy is a chance to prove actual bias, not implied bias). Finally, a significant portion of the Supreme Court of the United States has suggested that *Remmer* pronounces no constitutional rule at all. See *Shoop v. Cunningham*, 598 U.S. ___, 143 S.Ct. 37 (2022) (Thomas, J.; Alito, J.; Gorsuch, J.; dissenting from denial of PWC) (“Not only did *Remmer* not clearly establish the Sixth Circuit’s ‘any colorable claim’ rule, it is not even clear that *Remmer* established any constitutional rule. . . . One could just as naturally—perhaps more naturally—read *Remmer* as a case about new-trial motion practice under the Federal Rules of Criminal Procedure than as one about the requirements of constitutional due process.”).

² Murdaugh also cites to *Cameron* but in that portion of the opinion which does not state the legal standard, but rather quotes a portion of a 4th Circuit Court of Appeals opinion inconsistent with the standard acknowledged by *Cameron* and more subsequently clarified in *Smith* and most recently in *Green*. Murdaugh must show both that the alleged improper communications occurred and that jurors were actually biased as a result.

Where a defendant does not learn of a constitutional violation until after trial, the defendant is obliged to seek relief within one year of the actual discovery of the violation or when it could have been discovered through reasonable diligence, or within one year of the sending of the remittitur from appeal. See Rule 29(b), SCCrimP (as much in context of after-discovered evidence); S.C. Code Ann. § 17-27-45 (in the context of the Uniform Post-Conviction Procedure Act).³

A *prima facie* showing that a defendant is entitled to relief is necessary before an evidentiary hearing can be granted. *State v. Butler*, 261 S.C. 355, 358, 200 S.E.2d 70, 71 (1973); *State v. Farris*, 51 S.C. 176, 28 S.E. 370 (1897); *State v. Green*, 46 S.C. 566, 27 S.E.2d 663 (1896). A jury poll may cure any procedural irregularities, and confirm that each juror approves of the verdict returned and that no one has been coerced or induced to agree to a verdict to which he or she does not actually assent. 89 C.J.S. Trial § 1002; *State v. Linder*, 276 S.C. 304, 308-09, 278 S.E.2d 335, 338 (1981).

If that *prima facie* showing is made, the resultant “evidentiary hearing” is a strictly limited, judicially-conducted affair, particularly as concerns examination of the jurors. The competency of jurors as witnesses is strictly circumscribed by the Rules of Evidence:

Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith, except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror. Nor may a juror's affidavit or evidence of any statement by

³ Murdaugh's motion is filed pursuant to Rule 29(b), SCCrimP, which pertains to “evidence” typically conceived as facts which could have been presented to a jury at trial relevant to guilt or innocence. Cf. *State v. Caskey*, 273 S.C. 325, 256 S.E.2d 737 (1979) (“(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and, (5) Is not merely cumulative or impeaching.”).

the juror concerning a matter about which the juror would be precluded from testifying be received for these purposes.

Rule 606(b), SCRE; *see also State v. Gray*, 438 S.C. 130, 882 S.E.2d 469 (Ct. App. 2022) (quoting *State v. Pittman*, 373 S.C. 527, 553, 647 S.E.2d 144, 157 (2007)) (“Generally, juror testimony is not allowed regarding the deliberations of the jury or internal influences.”).

Both the Supreme Court and Court of Appeals commended the trial court’s “deft handling” in *Green* for the process it followed in investigating its own allegations of improper communication between a bailiff and a member of the jury. “The trial court questioned each juror and the bailiff, which proved ‘there was no reasonable possibility the [bailiff’s] comments influenced the verdict.’” *Green*, 432 S.C. at 100, 851 S.E.2d at 441. More specifically, the Honorable Donald B. Hocker, immediately after publishing the verdict,⁴ cleared the courtroom of all present save the lawyers involved in the case, the Clerk, and the Judge’s staff, then brought out each juror individually and polled them on the record, asking the following questions (with minor variations):

Was your verdict guilty on both charges and is that still your verdict?⁵

Was your verdict based one-hundred percent on the testimony, evidence, and law presented at this trial?

Was your verdict influenced in any manner by any communications with any of the bailiffs or any other person outside of the twelve member jury?

Did you have any communication with any of the bailiffs or with a third-party not part of the jury, and if so please relay to the Court what those communications were.

State v. Green, App. Case No. 2017-001332, Record on Appeal at 554-69. Similarly, in *State v. Kelly*, upon learning that a juror had introduced “a religious pamphlet concerning God’s view on capital punishment” to the rest of the jury, the trial court individually questioned

⁴ In the present case, we are now many months, “documentaries,” and juror interviews removed from the verdict, and so the question of “is that still your verdict” is not one of probative value.

⁵ See fn. 3, above.

the jurors “to determine who, if anyone, had read the pamphlet and what information was contained in the pamphlet.” *Kelly*, 331 S.C. at 139-40, 502 S.E.2d at 103-04. The trial court also conducted the questioning in *State v. Bryant*, using questions submitted by the parties after they learned of improper contact with jurors by an investigator. 354 S.C. 390, 393-94, 581 S.E.2d 157, 159 (2003).

Thus, the established practice is that when considering allegations of inappropriate communications, the Court should *voir dire* the complaining juror, each juror who engaged in the final deliberations, and the alleged improper communicator (in this case, the Clerk) with a mind to at least (1) whether the communication actually occurred and, if so, its context and substance; (2) the number of jurors exposed to the improper communication; (3) the weight of the evidence properly before the jury; and (4) the likelihood that curative measures were effective in reducing the prejudice. *See State v. Harris*, 340 S.C. 59, 530 S.E.2d 626 (2000) (listing the last three factors); *State v. Green*, 427 S.C. 223, 229, 830 S.E.2d 711, 713 (Ct. App. 2019) (“The trial court then brought each juror out separately for individual questioning on the record.”).

But for proposed questions submitted and subject to judicial pre-approval, the Court should not permit interrogation of the jurors by the parties or their attorneys. Jurors are citizens who have committed a tremendous service to their community and country through the sacrifice of time and effort to weigh on the most serious issue that can be put to them: a man’s guilt and his freedom. Jury duty is a cornerstone civic duty, and needless exposure of jurors to litigative stress and impeachment by zealous attorneys, particularly in a case of with this level public exposure, can only serve to further discourage citizens from willingly participating in this duty.

II. TRIAL: Near the End of Murdaugh's Trial, Separately Sourced Reports of Improper Discussions and Social Media Posts Were Brought to the Court and Investigated, Resulting in the Excusal of Juror 785, Who Now Raises Allegations He or She Expressly Denied to the Court When Examined.

Portions of the trial transcript illuminate or are otherwise relevant to resolving the allegations now raised by Murdaugh. The State excerpts and summarizes them as follows:

- a. The Court consistently instructed jurors to not discuss the case, and to only consider the competent evidence presented in the courtroom.**

Once the jury was selected, the Court promptly admonished the original eighteen jurors that "[i]t is important for you to know that you are not to discuss the case with each other or with anyone else, and not to endeavor to find out any information about this case other than what you will see herein the jury – in the courtroom." (Tr. 411, ll. 12-16). After a break, and during the Court's preliminary instructions, it again emphasized the importance of not discussing the case and accepting only the evidence presented in the courtroom:

Until I tell you that it's time to do so, you cannot discuss the case with anyone, including your fellow jurors. You cannot discuss the case with family, friends, or anyone else. The attorneys in the case, you cannot discuss it with them or any parties or anyone else that might be connected with the case. Should you discover that a fellow juror is violating that oath and that order, you are to bring that to my attention.

Now, it's also – and it's vital that you do not seek information outside of the courtroom during the case. That means that you're not to search internet websites, watch television reports, news reports, any other form of social media accounts of the case because you are sworn to decide this case based on the facts as you determine them to be, and based on the evidence presented in the case, as well as the law as I give it to you.

(Tr. 417-18).

Consistently throughout the trial, and even at points during jury selection, the Court reminded and admonished jurors to not discuss the case. (Tr. 99, ll. 10-12; Tr. 127, ll. 13-20; Tr. 177, ll. 22-25; Tr. 452, ll. 12-18; Tr. 502, ll. 2-4; Tr. 566, ll. 9-11; Tr. 627, ll. 14-15;

Tr. 710, ll. 18-19; Tr. 810, ll. 21-23; Tr. 840, ll. 6-8; Tr. 861, ll. 18-20; Tr. 908, ll. 24-25; Tr. 1001, ll. 6-8; Tr. 1125-26; Tr. 1251, ll. 10-12; Tr. 1513, ll. 3-5; Tr. 1535, ll. 13-18; Tr. 1694, ll. 24-25; Tr. 1950, ll. 20-21; Tr. 1966, ll. 11-14; Tr. 2140, ll. 14-15; Tr. 2228, ll. 23-25; Tr. 2304, ll. 13-15; Tr. 2480, ll. 15-17; Tr. 2542, ll. 17-18; Tr. 2649, ll. 12-14; Tr. 2877, ll. 22-24; Tr. 2933, ll. 16-18; Tr. 3005, ll. 18-20; Tr. 3034, ll. 4-5; Tr. 3058, ll. 4-5; Tr. 3231, ll. 1-2; Tr. 3322, ll. 9-10; Tr. 3352, ll. 6-8; Tr. 3384, ll. 14-16; Tr. 3451, ll. 19-20; Tr. 3553, ll. 13-14; Tr. 3831, ll. 8-9; Tr. 3883, ll. 4-6; Tr. 3904, ll. 9-10; Tr. 3923, ll. 7-8; Tr. 3972, ll. 20-21; Tr. 4048, ll. 2-4; Tr. 4130, ll. 15-21; Tr. 4202, ll. 12-14; Tr. 4271, ll. 12-13; Tr. 4310, ll. 13-14; Tr. 4394, ll. 21-25; Tr. 4462, ll. 14-16; Tr. 4534, ll. 13-14; Tr. 4593, ll. 20-21; Tr. 4693, ll. 12-14; Tr. 4748, ll. 17-19; Tr. 4774, ll. 21-22; Tr. 4890, ll. 16-20; Tr. 4966, ll. 20-24; Tr. 5014, ll. 18-20; Tr. 5065, ll. 5-6; Tr. 5084, ll. 8-12; Tr. 5147, ll. 20-21; Tr. 5280, ll. 16-17; Tr. 5359, ll. 22-23; Tr. 5526, ll. 10-12; Tr. 5656, ll. 2-5; Tr. 5668, ll. 20-25; Tr. 5816, ll. 13-15; Tr. 5851, ll. 8-11).⁶

In its charge to the jury at the end of the case, the Court instructed the jury they were to accept only the evidence presented, and that they were the sole judges of credibility:

You are to consider only the testimony which has been presented from this witness stand, along with other exhibits that – and evidence presented during the trial. Any other evidence or exhibits which have been made a part of the record you may consider, along with any stipulations made by counsel.

You are also the judges, the sole judges of the credibility, that is the believability, of the witnesses who have testified and of the evidence offered.
[. .]

It becomes your duty as jurors to analyze and to evaluate the evidence, and determine that evidence, which convinces you of its truth. [. .]

(Tr. 5853-84). In addition to the *dozens* of times the Court told the jury “do not discuss the case,” prior to the close of evidence, the Court again instructed jurors: “If your deliberations

⁶ The State cannot confirm that *every* admonition to the jury to not discuss the case is here cited from the 5,895-page transcript, however the Court consistently admonished the jury with “do not discuss the case” upon breaks in the proceedings, and the citations here provided represent an index of such verbiage.

necessitate an overnight break, you may use these [electronic] devices as necessary, but you may not use them to communicate with anyone about the case until the case is over.” (Tr. 5862, ll. 18-21). The Court further instructed jurors that an overnight break in deliberations was a possibility, and that if they so broke that they were not to seek information and should avoid the use of electronic devices. (Tr. 5862-64).

b. Certain statements attributed to Clerk Hill by Juror 630 closely resemble statements made in Court by the State.

The parties made their opening statements on Wednesday, January 25, 2023. The State, as part of its own opening statements, advised the jury:

You're going to see video statements of Alex Murdaugh. You're going to see a body-worn camera of him at the scene when law enforcement arrives and hear what he says, and hear what he says about that night. You're going to hear three recorded statements on video that he gave with law enforcement, and you're going to hear how things progressed about what he says, and what he says he did that night. *Watch those closely. Watch his expressions. Listen to what he's saying. Listen to what he's not saying.* Use that common sense. Does this seem right or does something seem a little off? Does something seem a little off about this?

(Tr. 426, ll. 7-18) (emphasis added). The jurors so complied, and were closely attentive throughout the trial.

At the end of its initial closing argument, the State implored the jury to not let Murdaugh fool them:

This is what he did. This is what he did right here. This defendant, on the other hand, has fooled everyone, everyone. Everyone who thought they were close to him. Everyone who thought they knew he was – who he was, he's fooled them all. And he fooled Maggie and Paul, too, and they paid for it with their lives. *Don't let him fool you, too.*

(Tr. 5668, ll. 7-13) (emphasis added). Later, the State, in its final closing argument, returned to the subject of body language while addressing the testimony of Mushelle Shelley Smith:

Do you think she knew right then? And that's real. That's real. Shelly is real. You saw her. *Body language is so important in life. Body Language.*

Mr. Waters was talking about with the defendant, all of our *body language*.
Did you see Shelly's?

(Tr. 5828, ll. 6-10) (emphasis added). The jurors were not fooled, paid attention to body language, and convicted Murdaugh.

c. The Court thoroughly investigated allegations of improper communications by Juror 785 and ultimately dismissed the juror for those communications, but gave no weight to the supposed Facebook post reported to the Court by Clerk Hill in a conversation which was placed on the record.

On Tuesday, February 28, 2023, after the conclusion of the reply examination of Kenny Kinsey, the Court initiated an *in camera* hearing regarding an e-mail that raised juror concerns. (Tr. 5526-27). In sum and substance, the e-mail represented that the unidentified author heard from an unidentified co-worker that said co-worker's landlord was a juror who said Murdaugh was innocent, and that said juror "works at the monkey farm." (Tr. 5527, ll. 2-10). Murdaugh's counsels advised the Court to disregard the e-mail as mere noise in a high profile case, but the State expressed concern about the allegation of a clear violation of the Court's instructions to the jury and noted there were still alternate jurors. (Tr. 5527-32). Counsel Griffin speculated without support that the e-mail was an orchestrated effort to get the juror removed. (Tr. 5532, ll. 13-14).

The Court then informed the parties of its exchange with Clerk Hill, who had evidently learned of the e-mail:

THE COURT: Okay. She – after I showed you all this email, we came back here, and the clerk came in and asked whether we had heard the same thing about a juror, about the juror, and we were in the midst of trying to figure out who the juror was that this pertained to since it did not indicate a juror number. It just said someone who worked at the monkey farm. So, the clerk then said that she was reading her Facebook messages over the weekend.

Gabby, help me out with the fact. Did she say over the weekend?

LAW CLERK: She said on Friday she was going through her timeline on Facebook and saw the post from this man who was supposed to be the ex-husband.

THE COURT: Yeah, [EX-HUSBAND], the ex-husband of this juror, and he – his post was that she was discussing the case with various people. I think that’s what Becky said.

LAW CLERK: Correct.

THE COURT: We asked Becky to – the clerk, to make a copy, or get a copy of the Facebook that she was referring – the post that she was referring to. She came back a little while later and said that it had been deleted by this [EX-HUSBAND], and that she brought – printed out what remains on his post, which was him stating that he – he posted an ugly post which he deleted.

[. . . substance of a Facebook apology post, humorous exchange between Mr. Meadors & Mr. Harpootlian . . .]

THE COURT: But the clerk said that she read the post where he was discussing that his ex-wife, the juror, has been discussing the case. Now, I – it was just very curious. We were talking about the e-mail, and the clerk came in and was talking about a Facebook post, and they both – and she said the juror works at the monkey farm. I was here trying to figure out what juror works at the monkey farm, and this juror number 785 works with at [BUSINESS NAME], Yemassee, South Carolina, which is the monkey farm.

[. . . discussion of what the “monkey farm” is . . .]

THE COURT: And the clerk – the clerk said the juror that they were posting about was a juror, [Juror 785], who works at the monkey farm, and this email referenced the juror who works at the monkey farm.

(Tr. 5533-36). Counsel Griffin suggested bringing in Juror 785; the Court agreed and noted its desire to also hear from Clerk Hill, who was not present at that time but had mentioned the Facebook post earlier that day. (Tr. 5536, ll. 5-13).

After some discussions by the parties as to appropriate procedure and the desire of the complainant to remain anonymous, as well as other trial procedural matters, the Court conducted an *in camera* examination of Juror 785 “to discuss any conversations that [Juror 785] have had with anybody about being on jury duty.” (Tr. 5550-51). As part of a brief discussion about a missive allegedly posted to Facebook by Juror 785’s ex-spouse, Juror 785 noted that Clerk Hill had alerted her to the alleged post. (Tr. 5551-53). The Court specifically followed up and asked:

THE COURT: So, has she [Clerk Hill] discussed the case with any of – any of the jurors? Has the clerk discussed anything about the case with anyone on that jury?

JUROR: Not that I'm aware of.

(Tr. 5553, ll. 22-25). Counsel Griffin, then satisfied, accepted Juror 785's explanations and argued he or she remained a competent juror. (Tr. 5555, ll. 18-22). Upon the State's expressed desire to know the identities of the persons who reported the improper contact to the Court, the Court again summoned Juror 785 and elicited additional information sufficient to identify the persons with whom the juror allegedly had the improper conversation: two of Juror 785's tenants, hereafter referred to as "Male Tenant" and "Female Tenant". (Tr. 5555-62). Shortly after 9 p.m. that evening, agents with the South Carolina Law Enforcement Division located them, interviewed them separately, and prepared memoranda and recordings reflecting the interviews.

On March 1, 2023, the twenty-seventh day of trial, the tenants met with ADAG David Fernandez and DAG Donald J. Zelenka and executed affidavits consistent with their statements to law enforcement the night before, which stated that Juror 785 had delivered a refrigerator to them on Saturday, February 18, 2023, and briefly discussed the case. After the jury view and the State's initial closing, the Court convened another *in camera* hearing to review the affidavits and examine Juror 785's tenants. The Court asked Male Tenant about his affidavit, and Male Tenant explained that he offered his opinion about the case to Juror 785, who had disclosed their role as a juror while speaking to Female Tenant while they were delivering a refrigerator. (Tr. 5676, ll. 4-18). Juror 785 had replied to Male Tenant that "she hadn't decided either way because it was, you know. It was kind of early in the case, I guess, you know, that she made no decisions if he was guilty or if he wasn't guilty." (Tr. 5676, ll. 20-25). The State then reviewed with Male Tenant his affidavit line by line, which he confirmed as accurate. (Tr. 5677-79). When counsel Harpootlian asked

Male Tenant to elaborate on Line 9 of the affidavit, in which Male Tenant recalled that Juror 785 “stated that she didn’t believe there was any evidence to make her think the Defendant was guilty at that time,” Male Tenant expressed that he took her to mean she had not made up her mind. (Tr. 5586-87).

The Court next examined Female Tenant. Female Tenant explained that Juror 785 disclosed while delivering the refrigerator that they were on the jury, which prompted Male Tenant to offer his opinion as to Murdaugh’s guilt. (Tr. 5694, ll. 2-25). Female Tenant recalled Juror 785 replied “well, I can’t talk about it. She said, but as of now nothing – reasonable doubt could make me say he’s guilty.” (Tr. 5694-95). When pressed by counsel Harpootlian for as direct a restatement as Female Tenant could muster, Female Tenant recalled Juror 785 said “[t]hat she could not without, you know, a doubt or whatever say he was guilty.” (Tr. 5695, ll. 21-24). Juror 785 did not explain to Female Tenant why she held that position. (Tr. 5695-96). Female Tenant reaffirmed her recollection in her affidavit, that Juror 785 “indicated that she didn’t believe there was evidence beyond a shadow of a doubt or beyond a reasonable doubt that Mr. Murdaugh committed the crimes he is alleged to have committed[.]” (Tr. 5696-97).

After hearing arguments from attorneys for each of the parties, the Court noted that “[i]n many cases, typically without any inquiry this juror would be gone, you know, without anything further. The juror would be gone without any discussion[. . . b]ecause she’s discussing the case and was ordered not to discuss the case. Even if she discussed it for a very short period of time, she’s having a discussion, so much so that this person understands that it shouldn’t be – shouldn’t have taken place and sent this e-mail.” (Tr. 5708-09). The Court then summoned Clerk Hill to discuss the supposed Facebook post. (Tr. 5709-10).

Clerk Hill explained to the Court that she briefly saw a post the preceding Friday on "Walterboro Word of Mouth" which she attributed to a juror's ex-spouse which said "that h3 noticed that his ex-wife was saying that she was on the jury and saying stuff about how her verdict was going to be, and that he was the ex-husband, but she was known for talking way too much. And then I just kept on scrolling because that was enough for me. I've gotten enough." (Tr. 5710, ll. 13-23). Clerk Hill "figured" the post referred to Juror 785 and alerted the Court after learning the Court had received an e-mail the following Monday. (Tr. 5711, ll. 1-7). When Clerk Hill tried to find the post again at the Court's directive, she could not, but found another post by another account with the ex-spouse's name that apologized for deleting a post made while drunk and possessed by Satan. (Tr. 5711, ll. 6-18).

After some discussion about the feasibility of finding the devil-afflicted suspected ex-husband, the Court asked if the parties wished to locate him. (Tr. 5711-12). Counsel Harpootlian very clearly declined: "I think not, Judge. I think if you would just accommodate me, bring [Juror 785] in, ask [them] about the specifics of the conversation. If [Juror 785] says yes, I'll have no complaints whatsoever." (Tr. 5712, ll. 20-23).

The Court complied with counsel Harpootlian's request, again summoned Juror 785, informed them the Court had met with the tenants, and asked if the juror could recall anything further about the conversation. (Tr. 5713-14). Juror 785 acknowledged delivering the refrigerator and that the tenants had expressed opinions to her about the trial, but denied expressing any of the juror's thoughts to the tenants. (Tr. 5714-15). After discussing Juror 785's ruse to claim they were in "Facebook jail" during trial, and irrelevant particulars of their employment, counsel Harpootlian astutely observed the Juror 785 placed their spouse at the scene of the conversation. (Tr. 5715-23).

Juror 785 called their spouse, put them on speaker, and upon brief examination by the Court, Juror 785's Spouse said the juror "was talking with my tenant's girlfriend, I think. And, you know, I know they talked about the trial, but I don't know to what extent, if you know what I mean." (Tr. 5724-25). The Spouse further explained "nobody was saying like, you know, guilty or innocent, but they were talking about some of the facts that had come out in the case either way, you know." (Tr. 5726, ll. 7-10). The Spouse also acknowledged talking if there was any excitement in Juror 785's day each evening, but that they did not talk details. (Tr. 5727-28).

Finally, the Court granted counsel Harpootlian the opportunity to confront Juror 785 directly with their tenants' affidavits, which the juror denied as inaccurate. (Tr. 5733-34). Once Juror 785 was excused, and after a very brief discussion of the witnesses, counsel Harpootlian declared "I'm not going to argue anymore about this. I'm going to defer - it's your call, your judgment." (Tr. 5734-35). "Your Honor, I'm not going to argue with whatever you do. Okay." (Tr. 5737, ll. 7-8).

The following morning March 2, 2023, after reviewing the video recordings of the interviews of the tenants, the Court excused Juror 785 from service for offering her opinion regarding evidence received up to the point of and during the conversations with the tenants. (Tr. 5737-39). Counsel Harpootlian affirmatively declined to take any exception to the ruling. (Tr. 5739, ll. 15-25). Juror 785 was summoned to the courtroom, advised of the Court's ruling, and upon inquiry about "[a] conversation [this] morning with Ms. Becky," the Court emphasized its ruling had nothing to do with anything brought up about the juror's ex-spouse. (Tr. 5740-43). Juror 785's possessions, to include a dozen eggs, were retrieved from the jury room and Juror 254 was promoted from alternate to the panel. (Tr. 5743-45).

The Jury, which never deliberated with Juror 785 or alternate Juror 741, convicted Murdaugh of killing his wife and son. (Tr. 5870-71). Upon inquiry by the Court, Counsel Harpootlian requested the jury be individually polled; the Court so polled and each individual juror affirmed "guilty" was their verdict and was remained their verdict. (Tr. 5872-74).

Less than one week later, attorney Joe McCulloch, represented to media that Juror 785 did not wish to speak publicly about the case and did not wish to be contacted. Rachel Sharp, *Infamous 'egg juror' in Alex Murdaugh's murder trial asks to be left alone*, The Independent, March 8, 2023.⁷ At some point unknown to the State, McCullough also assumed representation of Juror 630, and so represents each of the Jurors who have provided affidavits to Murdaugh.

III. STATE'S MOTIONS TO STRIKE

In support of his motion, Murdaugh provides various affidavits which are deficient under the South Carolina Rules of Evidence. Notwithstanding any effort by the State to grapple with the affidavits in its arguments in Sections IV and V, below, the State must respectfully move to strike portions of Murdaugh's Motion for a New Trial as follows:

a. The State Moves to Strike as Inadmissible Hearsay the Affidavits of paralegal Holli Miller.

In support of his motion, Murdaugh provides two affidavits from Counsel Harpootlian's paralegal Holli Miller which largely purport to reflect statements made to or otherwise in her presence by two jurors, Juror 741 and Juror 326. See Motion for New Trial, Exh. B & Exh. J.

⁷ Accessible at <https://www.the-independent.com/news/world/americas/crime/alex-murdaugh-egg-juror-trial-b2296532.html> as of November 6, 2023.

Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Rule 801(c), SCRE. Hearsay is not admissible. Rule 802, SCRE.

An affidavit from Miller is not tantamount to an affidavit from the juror themselves, and constitutes textbook hearsay. Accordingly, the State moves to strike in part as inadmissible hearsay Motion for a New Trial Exhibit B at lines 4-11, Exhibit J at lines 2-9, and any such part of the motion that relies thereon.

b. The State Moves to Strike as Inadmissible Under Rule 606(b), SCRE, All Such Material As Regards Internal Functions and Deliberations of the Jury.

In support of his Motion, Murdaugh provides four affidavits which purport to reflect statements made by jurors which, in part, pertain only to juror mental processes and interactions with one another. *See* Motion for New Trial, Exh. A, B, H, and J.

As previously noted, jurors may neither testify nor may the Court accept affidavits which pertain to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon that or another juror's mind or emotions, excepting claims of outside influence or extraneous outside information. Rule 606(b), SCRE; *see also State v. Gray*, 438 S.C. 130, 882 S.E.2d 469 (Ct. App. 2022) (denying without a hearing a defendant's motion for a new trial and refusing requested inquiries as prohibited by Rule 606 because they would cause jurors to reveal the subject matter of their deliberations).

Remarks in the affidavits regarding juror's thoughts about the evidence or one another are not properly admissible or even relevant to the ultimate claim raised. Accordingly, the State moves to strike in part as improper juror testimony Motion for a New Trial Exhibit A at lines 4-6; Exhibit B at lines 7, 8, and 10; Exhibit H at lines 14-15; Exhibit J at lines 5-7; and any such part of the motion that relies thereon.

c. The State Moves to Strike All Such Material As Regards Murdaugh's Claims Regarding the Facebook Post(s), Book Deal, and Post-Trial Media Interactions as Immaterial, Impertinent, and Scandalous.

The greater part of Murdaugh's motion is dedicated to an outlandish theory that Clerk Hill deliberately fabricated the existence of a Facebook post implicating Juror 785 in order to get them removed from the jury, force an outcome, and thereby profit from fame and fortune.

To be clear, in an attached affidavit Clerk Hill affirms she made no such deliberate fabrication, and she denies fabricating any Facebook post. (Exhibit A – Affidavit of Mary Rebecca Hill). Indeed, the machinations alleged do not even begin to make sense. Under Murdaugh's theory, Clerk Hill heard the Court had received an e-mail which implicated a specific juror, then in *immediate* response on the fly reported a fictitious Facebook post to implicate that same juror, then conspired with another staffer to quickly and by sheer coincidence be lucky enough to find an apologetic post by somebody with the same name as the juror's spouse, which she then reported to the Court in an effort to get an uncertain juror removed so as to ensure *some* outcome that would support a book deal she did not at the time have. Only Alex Murdaugh could conceive of such a confounded gambit as even remotely plausible, and he is projecting his own calculating, manipulative psyche onto a dedicated public servant in an effort to save himself.

Strategically, Murdaugh's inclusion of the Facebook post narrative appears to be a desperate effort by Murdaugh to pre-emptively impeach Clerk Hill; to bring into dispute irrelevant facts in order to support his Petition for a Writ of Prohibition pending in the Supreme Court of South Carolina; and to beef up what would otherwise be a thin, blandly legal filing not likely to draw attention to the various media efforts of his legal team.

Whatever Murdaugh's motivation, the Court expressly did **not** rely on the alleged Facebook posts in removing Juror 785. (Tr. 5740-43). Therefore, whether Clerk Hill saw

the alleged post, is mistaken as to the alleged post, or even fabricated it is of no consequence to the validity of Murdaugh's conviction or the actual claim raised by Murdaugh of improper external influence upon the jury. Accordingly, the State moves to strike entirely Motion for a New Trial Exhibits E, F, G, and L; and moves to strike in part Motion for a New Trial Exhibit H at lines 3-9, 13, and 17-21; and any such part of the motion that relies thereon.

IV. ARGUMENT 1: Even Assuming *Ad Arguendo* that All Facts Averred in Murdaugh's Motion are True, the Motion Fails to Make a *Prima Facie* Showing That He Is Entitled to an Evidentiary Hearing or Relief.

Although Murdaugh's Motion for a New Trial makes various allegations as part of its attempt to craft a breathtaking conspiracy narrative, it ultimately boils down to a single constitutional allegation: Clerk Hill told jurors not to believe Defendant, thereby violating his right to an impartial jury. Accordingly, even if the State assumes *ad arguendo* that all of the competent elements⁸ of the affidavits provided are earnestly given,⁹ the relevant analysis is as demonstrated by the questioning in *State v. Green*: (1) was the juror's verdict guilty; (2) was the juror's verdict based on the evidence presented; (3) was the juror's verdict influenced the alleged outside communication; (4) did the juror have any communications about the case outside of deliberations with the jury? All of the other details are irrelevant window-dressing.

Only one juror who participated in deliberations—Juror 630—ties to Clerk Hill any statements remotely consistent with Murdaugh's allegation of improper external influence: "not to be fooled," "watch him closely," "look at his actions," and "look at his movements." See Motion for New Trial, Exh. A at ll. 2-3. Even assuming for the sake of argument that

⁸ See Section III, *supra*.

⁹ It is difficult for the State to assume *ad arguendo* that they are all true as they are not consistent with one another or with the trial record.

Juror 630's recollection is accurate, and that he or she are not mis-remembering arguments expressly made by the State, Juror 630 does not attribute their verdict to the statements of Clerk Hill, but rather avers that he or she voted guilty, despite some questions, "because [Juror 630] felt pressured by the other jurors." See Motion for New Trial, Exh. A at line 10. That a juror felt pressured by other jurors is not a valid basis to impeach a verdict. See, generally *State v. Franklin*, 341 S.C. 555, 534 S.E.2d 716 (Ct. App. 2000) (due process not implicated where other jurors verbally abused a holdout juror for at least four hours). Nor does Juror 630's complaint of feeling pressured by other jurors constitute evidence that he or she or any other juror voted to convict because they were influenced by comments they allegedly heard from Clerk Hill.

Murdaugh offers an affidavit which purports to represent statements made by Juror 326, although the affidavit is that of Counsel Harpootlian's paralegal, Holli Miller. Even if the State accepts *ad arguendo* that Miller's affidavit is the equivalent of an affidavit from Juror 326 themselves,¹⁰ it is unavailing to Murdaugh: Juror 326 contradicts Juror 630 and recalled no such comments by Clerk Hill regarding Murdaugh's credibility. What Juror 326 did recall was a warning that the jurors would witness disturbing images, which is a neutral "trigger warning," and not one which puts a thumb on the scales of justice. To be sure, the jurors did review disturbing images.

No affidavit attached to Murdaugh's motion from or about a deliberating juror shows any effect on the verdict – even including Juror 630. Nothing else offered by Murdaugh helps meet his burden of making a *prima facie* showing. Neither Juror 785 nor Juror 741¹¹ participated in deliberations and thus cannot aver that their deliberations were influenced.

¹⁰ A hearsay affidavit is still hearsay, and is not competent evidence. See Section III.a., *supra*.

¹¹ Like Juror 326, the purported representations of Juror 741 are offered through Miller's hearsay and are not competent evidence. See Section III.a., *supra*.

Absent any representation that a deliberative juror's decision that Murdaugh was guilty was actually influenced by the improper communications alleged, Murdaugh has failed to make the *prima facie* showing necessary to justify so much as an evidentiary hearing, let alone a new trial. Accordingly, Murdaugh's Motion for a New Trial should be summarily denied.

V. ARGUMENT 2: Should the Court Deem an Evidentiary Hearing Necessary, the State Expects the Material Allegations will be Shown to be Not Credible.

In the alternative, in the event the Court concludes Murdaugh has made a showing sufficient to necessitate an evidentiary hearing in this matter, the State expects that sworn testimony to the Court will prove the allegations to be unfounded and not credible. Since Murdaugh's filing in the S.C. Court of Appeals, agents with the South Carolina Law Enforcement Division have successfully interviewed most of the jurors and the final alternate juror: one juror declined to discuss the case or deliberations (Juror 578), and two jurors are represented by attorney Joe McCullough (Jurors 630 and 785), who at the time of this writing has yet to consent to an unconditional interview with his clients. Clerk Hill denies commenting to the jury regarding Murdaugh's defense or testimony. **(Exhibit A – Affidavit of Mary Rebecca Hill).**

Upon information and belief, SLED's investigation into the allegations of jury tampering produced the following answers from the jurors who deliberated:

Juror #	Hear Remarks on Evidence by Clerk Hill?	See 1-on-1 Chats by Clerk Hill with Juror(s)?	Other Concerns?
Juror 193	No - Maybe generally pay attention	No	If anything, people were overly cautious.
Juror 254	Watch Murdaugh's body language	No	No
Juror 326	No – Graphic material warning	Yes - Saw chat re: financial/child support	No
Juror 530	No	No	No

Juror 544	No - Generally pay attention, look at body language, and be observant.	No	Juror 630 is a tenant of Juror 785, who is upset. Warned by Counsel Harpootlian of a subpoena if they did not talk.
Juror 572	No	No	No
Juror 578	Declined to discuss the case or deliberations		
Juror 589	No	No	Spouse warned by Harpootlian of a subpoena if they did not talk.
Juror 630	No interview at the time of this writing		
Juror 729	No - Generally pay attention; heard no body language comments.	Yes - Had chat re: financial/child support; saw Clerk chat with others	Denied statements regarding them in Aff'd of Juror 785. Uncomfortable when Harpootlian waved the gun around.
Juror 826	No	No	No
Juror 864	No	No	It was Creighton Waters in court argument who told jury to watch body language.

(Exhibit B – Redacted Written Statements of Jurors). *Perhaps most importantly, none of the jurors who willingly interviewed with SLED reported feeling any pressure or influence to reach their verdict.*

In addition to the jurors, SLED interviewed court staff. Jury coordinator Willard Polk Jr. reported that he was the interface between the jurors and the court and did not hear Clerk Hill or any other person attempt to influence the jurors. No other court staff witnessed any external influence on the jury either. **(Exhibit C – Redacted Written Statements of Certain Court Staff).**

Altogether, the allegations raised in the affidavits provided by Murdaugh can be explained as a combination of simple mistakes and, unfortunately, a non-credible affiant.

As noted previously, a brief review of the record reflects that the verbiage Juror 630 recalled is, as Juror 864 noted, more properly attributable to arguments of The State. See Section 2.b., *supra*. The State argued to the jury to not be “fooled” by Murdaugh, the State advised the jury to watch Murdaugh “closely” in the context of his video recorded statements, and the State emphasized the importance of body language. *Id.*

Juror 785, purportedly the landlord to Juror 630, was removed from the jury after the Court determined he or she improperly conversed about the case with other tenants during trial in contravention of the Court's dozens of admonitions not to do so. Juror 785 only recalled the “fooled by” language which was actually articulated by the State in its closing argument the day before Juror 785 was dismissed. See Section 2.b., *supra*.

But most importantly, the Court specifically asked Juror 785 during the *in camera* hearing if Clerk Hill had discussed the case with her or any other jurors to her knowledge, and Juror 785 replied “not that I’m aware of.” (Tr. 5553, ll. 22-25). It strains credulity to believe that Juror 785 would not be aware of Clerk Hill’s supposed statements when specifically asked by the Court at a time proximate to when they were allegedly made but would suddenly recall them many months later after learning Clerk Hill published a book. The remainder of Juror 785’s affidavit reports incredible one-on-one conversations with Clerk Hill which, aside from Juror 785’s inconsistent but more credible denial to the Court, pertain only to the wholly irrelevant Facebook post. Finally, contrary to Juror 785’s affidavit in support of the motion for a new trial, the tenants of Juror 785 affirmed the statements they made in their affidavits at trial and *in camera* testimony.

Alternate Juror 741 would not sign an affidavit as requested by Murdaugh’s counsels and was evidently reluctant to do so. See Alex Murdaugh’s Defense Team Seeks New Trial Amid Jury Tampering Reports at 18:34-19:16, *The Untold Story with Martha*

MacCallum (2023).¹² Juror 741 told SLED investigators that Clerk Hill told the jurors that the “defense is about to do their side and don't let them confuse or convince you. They may say things to confuse you.” However, neither Juror 630 nor Juror 785 clearly corroborate Juror 741's recollection, and no other juror even comes close to doing so. Juror 741 told SLED that she was aware that Clerk Hill wrote critically of her attentiveness during trial, and additionally noted that Clerk Hill told her after trial that no members of the media wished to speak with her.

The greater weight of anticipated juror and court staff testimony is that Clerk Hill made no materially improper comments. The State denies Murdaugh is entitled to relief and anticipates that any evidentiary hearing will only reaffirm the validity of his conviction for the murders of Maggie and Paul Murdaugh.

Furthermore, even *if* Clerk Hill made any improper comments to the jury, the State has found no juror who will aver that anything Clerk Hill said or did influenced their verdict. The Court clearly instructed jurors to consider only the competent evidence presented to them, and to apply the law as the Court gave it to them—the jury presumptively and affirmatively did so. Each individual juror reaffirmed their verdict when polled by the Court and none reported any influence from any court staff. The Court's instructions to consider only the competent evidence, and individual polling procedure after the verdict was returned, served to disabuse jurors of any misconceptions which may have developed over the weeks long trial and cure any errors which may have otherwise resulted.

¹² Accessible at <https://radio.foxnews.com/2023/09/08/alex-murdaughs-defense-team-seeks-new-trial-amid-jury-tampering-reports/> and <https://podcasts.apple.com/us/podcast/the-untold-story-with-martha-maccallum/id1446630562?i=1000627199993> as of November 5, 2023.

CONCLUSION

WHEREFORE, the State respectfully requests that this Court summarily deny Murdaugh's motion for a new trial or, barring that, convene an evidentiary hearing consistent with that conducted in *State v. Green* and, upon hearing the testimony of the jurors and witnesses presented, find Murdaugh's allegations to be not credible and deny his motion for a new trial.

Respectfully submitted,

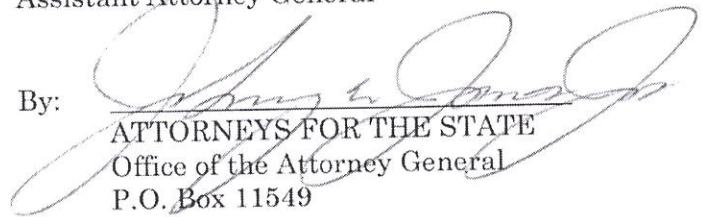
ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

S. CREIGHTON WATERS
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General

By:


ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

6 Nov., 2023

NOV 7 2023 AM 8:05
COLLETON CO GS, REBECCA H. HILL

Exhibit A

(Signed Affidavit of Mary Rebecca Hill)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
)
)
_____)

AFFIDAVIT OF
MARY REBECCA HILL

Personally appeared before me, the undersigned Notary Public duly authorized to administer oaths, Mary Rebecca Hill, who, being duly sworn, deposes and says:

1. I am over the age of eighteen (18), and I have the legal and mental competency to give this sworn affidavit and give sworn testimony in court.

2. This affidavit is submitted at the request of the Attorney General of South Carolina to address specific allegations contained in affidavits attached as exhibits to Mr. Murdaugh's Motion for New Trial filed October 27, 2023.

3. There are numerous misrepresentations and false statements contained within the Motion for New Trial to which I was not requested to specifically address. As such, this affidavit is not intended to address every allegation contained within the Motion for New Trial.

4. After being elected in 2020, I have served as the Clerk of Court in Colleton County.

5. I was the elected Clerk of Court for Colleton County during the case of *State of South Carolina v. Richard Alexander Murdaugh*.

6. I have reviewed Mr. Murdaugh's Motion for New Trial filed October 27, 2023.

7. As to the allegations contained within the Affidavit of Juror #630:

- a. I did not tell the jury "not to be fooled" by evidence presented by Mr. Murdaugh's attorneys.
- b. I did not instruct the jury to "watch him closely."
- c. I did not instruct the jury to "look at his actions."

M R H

- d. I did not instruct the jury to "look at his movements."
 - e. I did not say to the jury, "this shouldn't take us long."
 - f. When Juror #826 asked to speak with me, the conversations took place in the jury room hall within earshot of Bailiff, Bill Polk. The conversations did not involve the evidence, witnesses, or substance of the trial.
8. As to the allegations within the Affidavit of Holli Miller discussing an alleged conversation with Juror #741:
- a. I did not have private conversations with Juror #826 in a bathroom.
 - b. My conversations with Juror #826 did not involve the evidence, witnesses, or substance of the trial.
 - c. During the trial, I did not tell members of the jury that the media would want to interview them at the end of the trial.
 - d. During the trial, I did not hand out business cards of media personnel.
 - e. I did not tell jurors: "Y'all are going to hear things that will throw you all off. Don't let this distract or mislead you."
9. As to the allegations within the Affidavit of Juror #785:
- a. I did not tell jurors not to be "fooled by" the evidence presented by Alex Murdaugh's attorneys.
 - b. I did not ask Juror #785 whether Juror #785 was inclined to vote guilty or not guilty.
 - c. I did not tell Juror #785 that SLED and Colleton County Sheriff's Office personnel went to her ex-husband's house.
 - d. I did not tell Juror #785 that I would "reinstate" a restraining order against her ex-husband.
 - e. I did not state to Juror #785 that "the Murdaughs" probably "got to him."
 - f. I did not ask Juror #785 about her opinions regarding Mr. Murdaugh's guilt.
 - g. I did not ask Juror #785 "well, what makes you think he's guilty?"

MENT

- h. I did not discuss the evidence presented at trial with Juror #785.
- i. I did not tell Juror #785 that everything that Mr. Murdaugh said had been lies.
- j. I did not tell Juror #785 to "forget about the guns, they will never be seen again."
- k. I did not ask Juror #785 about the views of the rest of the jury.
- l. I did not tell Juror #785 that if the foreperson would "just go in and ask for a raise in hands this would be over and done with."
- m. I did not inform Juror #785 that "everyone needs to be on the same page."
- n. I did not fabricate, nor did I create any Facebook post related to Juror #785.

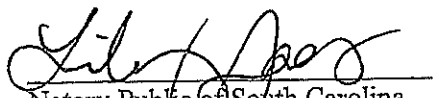
10. As to the allegations within the Affidavit of Holli Miller discussing an alleged conversation with Juror #326:

- a. I did not tell jurors they were prohibited from taking a smoke break during deliberations.

FURTHER AFFIANT SAYETH NAUGHT.


MARY REBECCA HILL

Sworn to and subscribed before me
on this 10th day of November 2023


Notary Public of South Carolina
My Commission Expires: 11/10/23

MENT

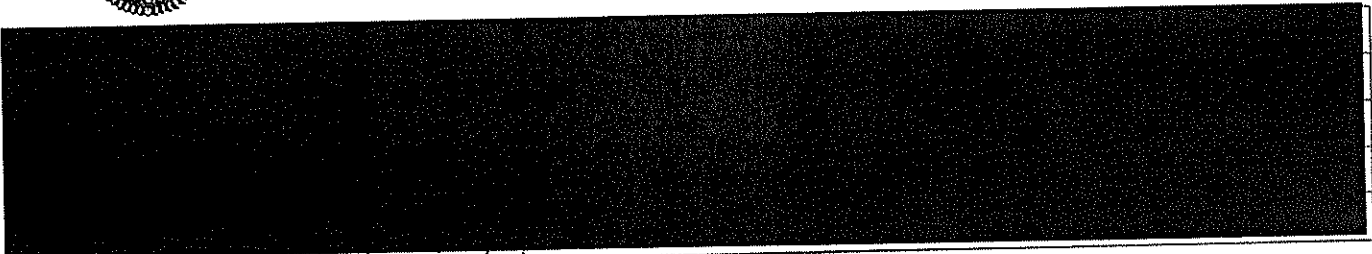
Exhibit B

(Written Statements of Jurors)



JURY # 193
VOLUNTARY STATEMENT

CASE # 32-23-026
LEAD # _____



DATE AND TIME OF INTERVIEW

LOCATION OF INTERVIEW

INTERVIEWING AGENT DEPARTMENT INTERVIEWING AGENT DEPARTMENT
C. W. [redacted] SLED Tiffany Tortorello SLED

I, [redacted] understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the [redacted] grade in school.

No I was not coerced to give my verdict, I came to the decision of my own free will
~~_____~~ ~~_____~~

No, I did not feel anything was said to influence my decision making

I did not witness any private conversations pertaining to the trial, and was not approached by anyone

I did not witness any jurors speak privately about the trial

I did not feel pressured to come to a quick verdict, or that I was required to reach a verdict in a certain time frame

I have not spoken to the defence team

To my knowledge, no juror attempted to begin deliberations early



I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained

Date: 09/14/2023 Time: 7:44 PM Signature of person giving voluntary statement

WITNESS: [Signature] WITNESS: Tiffany Tortorello

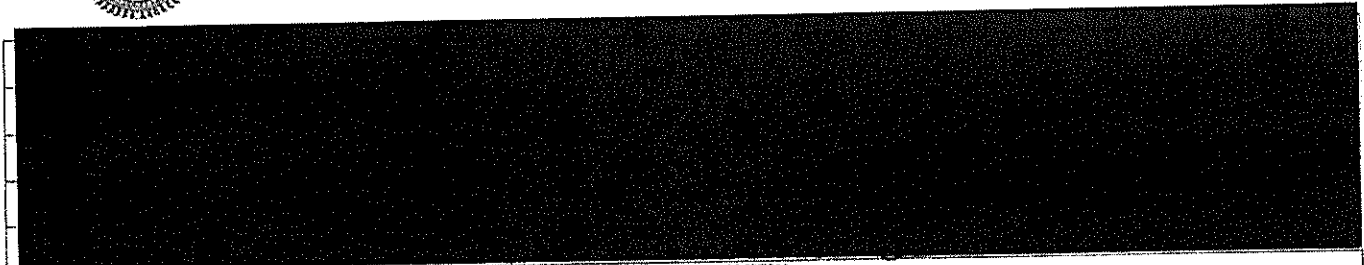
I certify that I have been given a copy of this statement consisting of 1 pages.



JUROR # 254
VOLUNTARY STATEMENT

CASE # 32-23-0126

LEAD # _____



DATE AND TIME OF INTERVIEW



LOCATION OF INTERVIEW



INTERVIEWING AGENT J. McDaniel	DEPARTMENT SLED	INTERVIEWING AGENT Paul P. Knight	DEPARTMENT SLED
-----------------------------------	--------------------	--------------------------------------	--------------------

I, _____ understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the _____ grade in school.

This was my first time as a juror and I found that this experience was very rewarding as a civic duty. During the time we as a jury were treated with respect and received anything that we requested. The only time that I had interaction with anyone was through the bailiff. Other than one time when we as a jury was waiting to go into the court room and a comment was made to "watch his body language." At that time I didn't take it any way other than to watch his body language. That comment didn't persuade me of the decision that I ultimately made during deliberations.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9-13-23 Time: 10:10



WITNESS: [Signature]

WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.



JUROR # 326
VOLUNTARY STATEMENT

CASE # 33-23-0126
LEAD # _____

[REDACTED]

DATE AND TIME OF INTERVIEW 9-6-23 2:09 pm

I, [REDACTED]

INTERVIEWING AGENT S/A Paul B. Knight DEPARTMENT SLED INTERVIEWING AGENT S/A Jacob Medantel DEPARTMENT SLED

I understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the [REDACTED] grade in school.

I believe that my interaction with Mrs. Hill the court clerk was limited to information from the judge or about important events such as graphic material or how long of a break we would get. I do not believe she acted outside her role as court clerk and acted in a very professional manner.

[REDACTED]

I have read each page of this statement consisting of [REDACTED] page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9-6-2023 Time: 2:14 PM [REDACTED]

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.



JUROR #530 VOLUNTARY STATEMENT

CASE # 32-23-0126
LEAD # _____

LAST NAME	FIRST NAME	MIDDLE NAME	AGE	DOB
[REDACTED]				

BY EVANS CONSTRUCTION
DATE AND TIME OF INTERVIEW: 9-6-2023 5:30pm

INTERVIEWING AGENT	DEPARTMENT	INTERVIEWING AGENT	DEPARTMENT
<u>Clayton J. Wright</u>	<u>SLED</u>	<u>SIA Allison Davis</u>	<u>SLED</u>

I, [REDACTED], understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the [REDACTED] grade in school.

I did not at any point feel pressured to make a decision throughout the trial, nor did anyone attempt to sway my decision by [REDACTED] any means of communication. At no point in time throughout the trial did anyone attempt to have a one-on-one conversation with me for any purpose regarding the trial. To the best of my knowledge, there was no court official or employee that questioned myself or other jurors regarding the trial or its outcome. To this date, I have not been contacted by the defense regarding the new allegations or other topics. Throughout the trial, I did not observe anything that I perceived to be unethical by any court employee.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9-6-2023 Time: 5:30pm [REDACTED] voluntary statement

WITNESS: [Signature] WITNESS: [Signature]

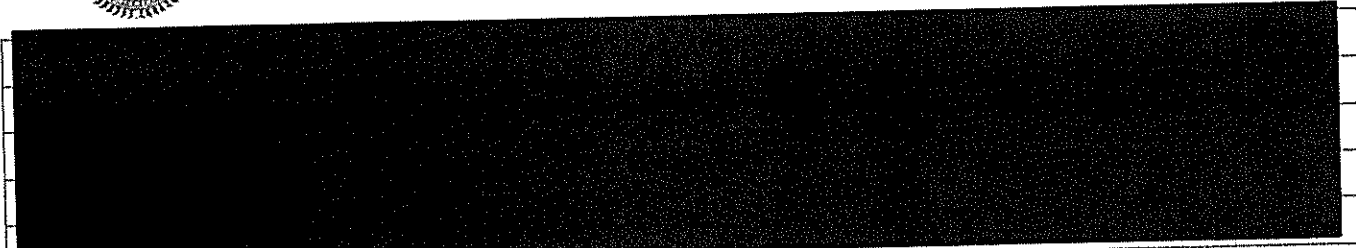
I certify that I have been given a copy of this statement consisting of 1 pages.



JUROR # 544
VOLUNTARY STATEMENT

CASE # 32-23-0126

LEAD # _____



D [Redacted] DATE AND TIME OF INTERVIEW 9/8/23 9:45 am

L [Redacted]

INTERVIEWING AGENT J. McDaniel DEPARTMENT SLED INTERVIEWING AGENT Paul B. Knight DEPARTMENT SLED

I, [Redacted] understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can not read and write and completed the [Redacted] grade in school.

While on the Jury Miss Hill never made me feel as though she was trying to sway me either way innocent or guilty. Miss Hill spoke to us as a group in regards to what type of things we would like for snacks breakfast and lunch. Miss Hill mentioned if we were sequestered that we would be staying at a hotel and we would be given time to gather our things to stay at the hotel. She also stated that an agent or officer would be with us the entire time. I felt she stated this to us as trying to keep us informed of what may or could happen. I was never made to feel pressured to say or do anything by anyone court employees or CO Jurors. I never witnessed any Jurors going into a room alone with Miss Hill.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9.8.23 Time: 10:25 AM [Redacted]

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.



JUVOR # 572
VOLUNTARY STATEMENT

CASE # 32-23-0126
LEAD #

[REDACTED]

PERSON'S LICENSE NUMBER (if any) [REDACTED] DATE AND TIME OF INTERVIEW [REDACTED]

LOCATION OF INTERVIEW [REDACTED]

INTERVIEWING AGENT [REDACTED] DEPARTMENT [REDACTED] INTERVIEWING AGENT Tiffany Tectorello DEPARTMENT SLED

I, [REDACTED] understand I do not have to say anything, and I volunteer the information I give if it may serve. I can [REDACTED] read and write and completed the [REDACTED] grade in school.

No, I was not coerced to give any answers, my decision was of my own, no court employee influenced my decision. I did not have any private conversation, other than myself talking to Mrs. Becky Hill about me not using the stairs because of my knee injury. I did not witness any private conversations amongst the other jurors. I did not hear or witness anyone or any court official stating to us the jurors, that we should not listen to the witnessess or it shouldn't take long etc. No one made me feel that I had to arrive to a quick verdict, and if I didn't I or the jurors would not be able to leave. No one from the defense team ever reached out to me pertaining to the Murdaugh trial. Myra, the juror that was ejected from the trial, stated one morning on the van that her husband told her we were going to "Mozelle", and we told her no discussions.

[REDACTED]

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9-14-2023 Time: 6:07 pm [REDACTED] Signature of person giving voluntary statement

WITNESS: [Signature] WITNESS: Tiffany Tectorello

I certify that I have been given a copy of this statement consisting of 1 pages.



JURY # 589

VOLUNTARY STATEMENT

CASE # 32-23-0126
LEAD #

[REDACTED]
[REDACTED]
[REDACTED]

DATE AND TIME OF INTERVIEW: 9.8.23 10:30
INTERVIEWING AGENT: [REDACTED] DEPARTMENT: SLED
INTERVIEWING AGENT: Paul B. Knight DEPARTMENT: SLED

I understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can cannot read and write and completed the grade in school.

I was a member of the jury. When we would go over to the jury room, people would go to the rooms where they wanted to sit. Most of them stayed in the same room from the beginning. Ms. Hill would come in periodically to see if we needed anything and check on us. I did not feel rushed at any point to make any decision.

Q: Did Ms. Hill ask questions about your opinion?

A: No, she did not.

Q: Did Ms. Hill pressure you to speak to [REDACTED]?

A: I felt no pressure to speak. I had my mind made up.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9.8.23 Time: 10:28 [REDACTED] Statement

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.

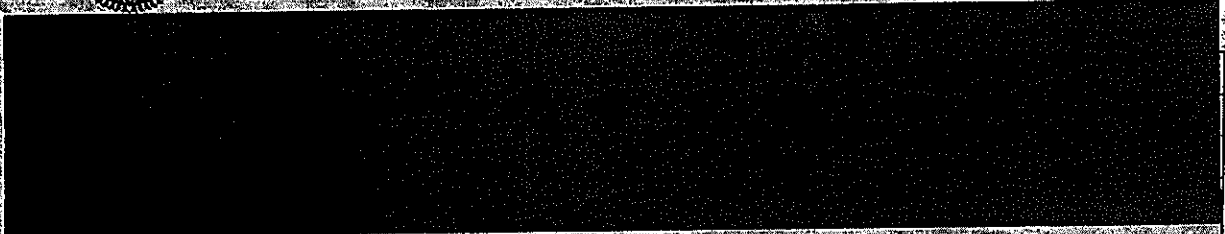


JUVVOR # 729

VOLUNTARY STATEMENT

CASE # 32-23-0126

LEAD #



DATE AND TIME OF INTERVIEW 9/13/23 3:35 pm	
INTERVIEWING AGENT D. [Redacted]	DEPARTMENT SLED
INTERVIEWING AGENT [Redacted]	DEPARTMENT SLED

I understand I do not have to say anything, and I volunteer the following information of my own free will for whatever purposes it may serve. I cannot read and write and completed the _____ grade in school.

During a 6 week trial I found that with two different rooms, there would be a lot of gossip between strangers. Each room was filled with men & women. The room I was in was a quiet room while the other room was louder and filled with conversations of work & private life. I spoke with Becky Hill on a couple occasions about my financial burden and that I needed to speak with the judge. Smoke breaks once a day, sometimes more. She did come speak to others but I didn't hear the conversations. During the trial I had a very uncomfortable feeling as the defence attorney would ^{hold} the gun around as if he has never held one before. During our smoke breaks we would talk about lunch or what we are missing at work. There was always something to talk about or someone to talk to. After 6 weeks it came time for deliberation. Everyone took an anonymous vote followed by open discussions and questions. It was fast and smooth, but I felt no pressure. I was set in my decision. After everyone discussed our thoughts, we voted again. Every vote came back guilty. We checked multiple times to see if all were comfortable with the decision. If we needed to wait, we would have. On the day of sentencing, we were approached by Catherine and Mrs. Hill who asked if we wanted to do an interview. We told her no. She seemed disappointed but let things go.

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9/13/23 Time: 5:26 pm

Signature of person giving voluntary statement

WITNESS: [Signature]

WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 2 pages.

JUROR # 729
VOLUNTARY STATEMENT
SUPPLEMENTAL

CASE # 32-23-0126

LEAD #

Statement of: Continued

Q. Did you ever hear anyone tell the jury "not to be misled or fooled" by evidence presented in Mr. Mordough's defense?

A. I did not hear anyone say not be misled or fooled by the evidence.

Q. Did Ms Hill ever ask you your opinion in regard to the trial?

A. No, I did not have conversations with Mrs Hill like that during the trial.

Q. Did you ever feel pressured to make decisions prior to deliberation?

A. At no point during the trial did I feel pressured to make my decision.

[Redacted area]

Date: 9/13/23 Time: 5:26pm

Person giving statement to place initials behind last word of statement as appears on last page

ing voluntary statement



JUROR #826
VOLUNTARY STATEMENT

CASE # 33-23-026
LEAD # _____

LAST NAME	FIRST NAME	MIDDLE NAME	AGE	DOB
[REDACTED]				

DATE AND TIME OF INTERVIEW
9-6-2023 3:00pm

INTERVIEWING AGENCY	DEPARTMENT	INTERVIEWING AGENCY	DEPARTMENT
JJA Allison Davis	SLED	Clonison J Wisk	SLED

I, [REDACTED] understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the _____ grade in school.

Q: Did you feel pressured at any point during the trial to make a decision? A: NO [REDACTED]

Q: Did any court official or court employee persuade you or any other juror one way or another as it pertains to guilt or innocence? NO [REDACTED]

Q: Did any court official or court employee have a one on one conversation with you or any of the jurors? NO [REDACTED]

Q: Did anyone attempt to contact you after the trial regarding the trial? NO except for the media.

Q: Did you see anything during the trial that you perceived to be inappropriate or unethical? NO, not that I recall.

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9-6-2023 Time: 1505 [REDACTED]
Signature of person giving voluntary statement

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 2 pages.

JUROR #826
VOLUNTARY STATEMENT
SUPPLEMENTAL

CASE # 32-23-0126

LEAD # _____

Statement of, Continued

Q: Did any court official or court employee question you or any juror prior to deliberation about decisions of the jurors regarding guilt or innocence of the defendant? No. I am aware of.

[Large section of the document is crossed out with a large 'X' and contains several blacked-out redaction boxes.]

Date: 9/6/23 Time: 15:05

Signature of person giving voluntary statement

Person giving statement to place initials behind last word of statement as appears on last page.

[Handwritten initials]



JURY # 864
VOLUNTARY STATEMENT

CASE # 32^{cow}-23-026
LEAD # _____

[REDACTED]

DATE AND TIME OF INTERVIEW

LOCATION OF INTERVIEW

INTERVIEWING AGENT DEPARTMENT INTERVIEWING AGENT DEPARTMENT
[REDACTED] SL6D Tiffany Tortorello SL6D

I, [REDACTED] understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I (can) cannot read and write and completed the grade in school.

No one pressured me to make my decision of guilty.
No one influenced me to make any decision or said anything to cause me to come to a guilty verdict.
I did not have or witness anyone having a private conversation about the case.
I was not told that I would not be able to leave until I make a decision.
No one from the defense ever called or came by my house.
I did hear Mirah say we are going to [REDACTED] Mozell.

[REDACTED]

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contain

Date: 9/14/23 Time: 6:49 AM [REDACTED] ent

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.

Exhibit C

(Written Statements of Court Staff)



VOLUNTARY STATEMENT

CASE # 32-23-0126
LEAD # _____

LAST NAME <u>Hayes</u>	FIRST NAME <u>Laura</u>	MIDDLE NAME <u>C</u>
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DATE AND TIME OF INTERVIEW <u>16/2023 @ 2:20 PM</u>
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INTERVIEWING AGENT <u>K. Radford</u>	DEPARTMENT <u>SLED</u>	INTERVIEWING AGENT	DEPARTMENT
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I, Laura C. Hayes understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can cannot read and write and completed the 12th grade in school.

I do not have any personal knowledge of any contact between Rebecca Will and the jury during the Murdaugh Trial. My job as Deputy Clerk was mainly to gather lunch orders and deliver lunch to jury and others. I personally had no contact with the jurors other than delivering their lunch and making sure they had what they ordered. I spent the majority of my time in my office in Family Court and had no contact with the trial or any matters pertaining to the trial.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 8/6/2023 Time: 3:00 Laura C. Hayes
Signature of person giving voluntary statement

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.



VOLUNTARY STATEMENT

CASE # 32-13-0076

LEAD # _____

LAST NAME <u>Weiss</u>	FIRST NAME <u>Lori</u>	MIDDLE NAME <u>Lyn</u>	[REDACTED]
[REDACTED]			
DATE AND TIME OF INTERVIEW <u>9/6/23</u>		[REDACTED]	
INTERVIEWING AGENT <u>A. M. [REDACTED]</u>	DEPARTMENT <u>JED</u>	INTERVIEWING AGENT <u>A. M. [REDACTED]</u>	DEPARTMENT <u>JED</u>

I, Lori L. Weiss understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the 12th grade in school.

I did not observe Ms. Hill or any other Court Employee speak with any Jurors during the course of the Murdaugh trial except the bailiff that was assigned to them.
I was asked to look through social media for a post regarding a Juror speaking out. None was found. An apology post that may or may not have been associated was located and given to Ms. Hill.

AW

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9/6/23 Time: _____ Signature of person giving voluntary statement: Lori L. Weiss

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.

CASE # 32-23-0126

VOLUNTARY STATEMENT

LEAD # _____

LAST NAME Polk Jr.	FIRST NAME Willard	MIDDLE NAME H	
DATE AND TIME OF INTERVIEW 9/6/23 2:00 PM			
LOCATION OF INTERVIEW [Redacted]			
INTERVIEWING AGENT Benjamin Ross	DEPARTMENT SLED	INTERVIEWING AGENT Rafany Tartorello	DEPARTMENT SLED

I, Willard H. Polk Jr. understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can not read and write and completed the 12TH grade in school.

DURING THE Alex MURDAUGH TRIAL I SERVED AS THE JURY COORDINATOR. my RESPONSIBILITIES CONSISTED MAINLY AS BEING THE PRIMARY INTERFACE BETWEEN THE JURORS AND COURT OFFICIALS LIKE ANY medical or personal issues ETC. IN my JURY COORDINATOR POSITION I DID NOT PERSONALLY HEAR ANYONE INTERFACE WITH AND TRY TO INFLUENCE THE JURORS. I DID NOT HEAR THE CLERK OF COURT REBECCA HILL TRY TO INFLUENCE THE JURORS. my JURY RESPONSIBILITIES kept me busy and I DIDN'T HEAR ANYONE TRY TO INFLUENCE THEM. THIS TRIAL WAS VERY IMPORTANT FOR Alex MURDAUGH AND THE Colleton County COURTHOUSE SO I TRIED TO keep EVERYTHING PROFESSIONAL AND PROBLEM FREE. THE JURORS became like FAMILY AFTER Bond. TALKED FOR SIX WEEKS. I HAVE NOT SEEN OR TALKED TO ANY OF THE JURORS SINCE THE TRIAL

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: Sept 6 2023 Time: 2:53 PM Signature of person giving voluntary statement: Willard H. Polk Jr.

WITNESS: Raymond L. Basso WITNESS: Diffany Tartorello

I certify that I have been given a copy of this statement consisting of 2 pages.



32-22-126

VOLUNTARY STATEMENT
SUPPLEMENTAL

CASE # BA-23-0126

LEAD # _____

Statement of, Continued

Q: Did you ever hear any court official / clerk of court tell the jury "not to be misled or fooled by evidence presented in Mr. Murdaugh's defense"?

A: I DID NOT HAVE KNOWLEDGE OF ANYONE ASKING THE ABOVE QUESTION

Q: Did you ever get told by jury members or hear anyone tell the jury members from the outset of their deliberations that it "shouldn't take them long"?

A: I DID NOT HEAR ANYONE ASK A JUROR THE ABOVE QUESTION

Q: Did you ever observe Ms. Hill speaking with jurors privately?

A: I DID NOT EXCEPT FOR TWO ISSUES ONE WAS A PERSONAL FEMALE ISSUE AND ONE WAS A CHILD SUPPORT ISSUE WITH A MALE JUROR. I WAS PRESENT WITH HER FOR BOTH OF THESE ISSUES. THE OCCASIONS WAS AT THE VERY BEGINNING OF THE WEEK.

Q: Were the jurors allowed smoke breaks once deliberation started? yes/no?

A: I DID NOT TAKE THE JURORS ORV SMOKE BREAKS ONCE DELIBERATION STARTED, THIS HAS ALWAYS BEEN THE POLICY SINCE I BEGAN WORKING WITH JURIES, WBP

WBP

WBP

Date: Sept 6, 2023 Time: 2:54

William D. Pollock

Signature of person giving voluntary statement

Person giving statement to place initials behind last word of statement as appears on last page.



VOLUNTARY STATEMENT

CASE # 32-23-0120

LEAD # _____

LAST NAME <u>BENNETT</u>	FIRST NAME <u>PAUL</u>	MIDDLE NAME <u>ERWIN</u>	[REDACTED]
DRIVER'S LICENSE NUMBER/STATE		DATE AND TIME OF INTERVIEW <u>9-12-23</u>	
LOCATION OF INTERVIEW			
INTERVIEWING AGENT	DEPARTMENT	INTERVIEWING AGENT	DEPARTMENT

I, PAUL BENNETT understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can not read and write and completed the 12 grade in school.

My job during Murdaugh Trial was to control the Gallery & seating them & lawyers, and Press in proper place during trial. I in no circumstance saw anything inappropriate by Becky Hill. All I witness was the Clerk of Court performing her normal duties as a clerk.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 9-12-23 Time: 1:25 pm Paul Erwin Bennett
Signature of person giving voluntary statement

WITNESS: [Signature] WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 1 pages.

Form # CF-002 (Rev. 7-24-06)
CALEA 1.2.3, 4.2.3