

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Aug 13 2024

S.C. SUPREME COURT

COLLETON COUNTY
Court of General Sessions
The Honorable Clifton B. Newman, Circuit Judge

Appellate Case No. 2023-000392

The State Respondent,

v.

Richard Alexander Murdaugh..... Appellant.

**APPELLANT RICHARD ALEXANDER MURDAUGH'S
MOTION TO STAY BRIEFING,
OR, IN THE ALTERNATIVE,
FOR AN EXTENSION TO SERVE AND FILE THE INITIAL BRIEF OF APPELLANT**

On March 2, 2023, Appellant Richard Alexander Murdaugh was convicted of the murder of his wife and younger son. He timely filed the instant appeal from those convictions.

On September 5, 2023, Appellant filed a motion to suspend this appeal and for leave to file a motion for a new trial based on after-discovered evidence of jury tampering by the Colleton County Clerk of Court. The Court of Appeals granted the motion, and he filed his motion for a new trial on October 27, 2023. A one-day evidentiary hearing concluded on January 29, 2024, and the trial court entered an order denying the motion for a new trial on April 11, 2024. Appellant timely appealed the denial, and that appeal has been docketed as Appellate Case No. 2024-000576 (the "Jury Tampering Appeal").

On July 10, 2024, Appellant moved for certification of the Jury Tampering Appeal under Rule 204(b), SCACR. Appellant moved the Court of Appeals to suspend briefing deadlines in the instant appeal and in the Jury Tampering Appeal pending this Court's disposition of the motion to certify. The Court of Appeals denied the motion and Appellant timely filed his initial brief in the Jury Tampering Appeal in the Court of Appeals on August 12, 2024.

On August 2, 2024, Appellant moved the Court of Appeals for a 120-day extension of the briefing deadline in the instant appeal, citing several extraordinary circumstances related to this case. The Court of Appeals granted the motion by order dated August 6, 2024, and extended the time to file an initial brief to December 10, 2024.

In the morning of August 13, 2024, the Court granted the motion to certify the Jury Tampering Appeal and ordered Appellant to file his initial brief in this Court within 30 days. Appellant filed his initial brief in this Court in the early afternoon that same day. Later that afternoon, the Court certified the instant appeal on its own motion under Rule 204(b), SCACR, and ordered Appellant to file his initial brief in this Court within 30 days.

Both appeals seek to vacate Appellant's murder convictions, but the grounds for each appeal are legally and factually separate. The Jury Tampering Appeal does not ask the Court to decide any questions of law presented in the instant appeal, nor does it ask the Court to consider evidence or factual findings relevant to the instant appeal. What legal standard should apply to a motion for a new trial based on after-discovered evidence of jury tampering by the Clerk of Court, or whether findings about jury tampering outside the courtroom are supported by the evidence submitted at a one-day evidentiary hearing held a full year after the murder trial, has no bearing on whether evidence or argument was presented inside the courtroom during the six-week murder

trial that should have been excluded under the South Carolina Rules of Evidence, or, if so, whether that constitutes reversible error.

If the Court reverses the trial court in the Jury Tampering Appeal, the larger instant appeal would be made moot. If, on the other hand, the Court affirms the trial court in the Jury Tampering Appeal, the instant appeal would be unaffected because it involves no common questions of law or fact. Because the two appeals present no common questions of law or fact, judicial economy must suggest deciding the Jury Tampering Appeal first because the record on appeal in the instant appeal is many dozens of times larger than the record from a one-day evidentiary hearing on a single issue.

Further, Appellant has already briefed the Jury Tampering Appeal, both in the Court of Appeals before certification and in this Court after certification of the Jury Tampering Appeal but before certification of the instant appeal. The initial brief for the instant appeal in the Court of Appeals was not due until December 10, 2024. The Court's order reverses, *sua sponte*, the order of the Court of Appeals that set that deadline based on Appellant's showing of extraordinary circumstances, without giving Appellant notice or an opportunity to be heard.

Appellant therefore requests the instant appeal be stayed pending disposition of the Jury Tampering Appeal. In the alternative, Appellant requests that the Court adopt the December 10, 2024, deadline for the initial brief in the instant appeal that was set by the Court of Appeals on August 8, 2024.

s/Richard A. Harpootlian
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August 13, 2024.