

The State of South Carolina

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The Honorable G. Murrell Smith, Jr.
506 Blatt Bldg.
Columbia, South Carolina 29201

The Honorable Thomas C. Alexander
213 Gressette Bldg.
Columbia, South Carolina 29201

Dear Speaker Smith and President Alexander,

I hope this letter finds you well, though I know that you, along with the majority of the Nation, are continuing to process the recent events in Utah and Charlotte. These tragic events have brought the issue of violence to the forefront of the American conscience. We must ask ourselves once again what we can do to improve the consequences for those who seek to ruin our way of life here in South Carolina. Thus, I write this letter to bring an important issue regarding the prosecution of such heinous crimes in South Carolina to your attention and to request legislative action. It is actually something I have called for during my presentations around the state for the last four years discussing criminal justice and judicial reform.

Under South Carolina's current state of the law, it would be nearly impossible to seek the death penalty for heinous premeditated killings such as the murder of Charlie Kirk. To pursue the death penalty in South Carolina, the State must prove one of the enumerated statutory aggravating factors found in South Carolina Code Annotated Section 16-3-20. Currently, only one of these factors would arguably apply in the murder of Charlie Kirk, and quite frankly it would be a stretch. Section 16-3-20(C)(a)(3) contemplates an act of murder where the subject knowingly created a risk of death to more than one person in a public place. I have argued aggravating circumstances in death penalty cases. In my experience it would be unnecessarily difficult to make this argument in the murder of Charlie Kirk if it occurred in South Carolina. The suspect apparently fired only once, hit his target, and did not appear to have any intent to harm others. Thus, under the current law in South Carolina, it would be unlikely that the death penalty would be a real option. Yet in my opinion, such premeditated savagery deserves our State's ultimate penalty. Murders that are premeditated and meticulously planned should be death penalty eligible.

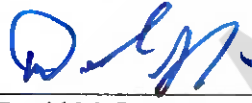
For this reason, I propose a minor amendment to our death penalty's statutory aggravating factors. An aggravating factor should be added that contemplates premeditation or a plan to carry out an act of murder. Where a defendant creates a plan of action and takes numerous concrete steps in furtherance of that plan culminating in the commission of murder, the State should have the ability to pursue the death penalty. I have spoken to various legislators who support adding an aggravating factor for premeditated murder, and

I believe it would be an important addition. Indeed, many people I have spoken with incorrectly believed that premeditated murder was already eligible for the death penalty. As of now, however, it is not.

Candidly, it feels unseemly to use the tragic death of Mr. Kirk as a basis for proposing these legislative changes. But unfortunately, it is oftentimes great tragedy that inspires positive change in our State and our Nation. I believe that it is our responsibility as leaders to respond with solutions and positive change so that we can move our State in the right direction. I hope that you will carefully consider this request to give South Carolina prosecutors more tools to address senseless killings such as these if they should happen in our State.

I thank you sincerely for your time and attention to this matter. Please call me if I can answer any questions or provide you with any assistance. I appreciate your service to the people of our great State.

Sincerely,



David M. Pascoe
First Circuit Solicitor

cc: Governor Henry D. McMaster
The South Carolina House of Representatives
The South Carolina Senate