

**STATE OF SOUTH CAROLINA
COUNTY OF SUMTER**

State of South Carolina,

v.

Richard Alexander Murdaugh,

Defendant.

**COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT**

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

**REPLY IN SUPPORT OF MOTION TO
COMPEL PRODUCTION OF RAW
FARO SCAN DATA**

Defendant Richard Alexander Murdaugh replies to the State's Response to Motion to Compel Raw FARO Data of October 8, 2026. The response says that SLED has the original scans and that "the State is happy to provide those to the defense." (State's Resp. at 2.) The defense is glad to hear it. It wishes only that the State had said so a month ago.

On September 15, 2026, Mr. Harpootlian wrote to Mr. Waters, identified the raw scan data the defense's reconstruction experts need, explained why a read-only viewer export is not a substitute for it, and asked the State to confirm by September 17 that the data exist and would be produced. (Mot. Ex. C.) The defense did not demand the State produce it by that or any other unilaterally set date. The defense only asked the State to state whether it would produce it. The State did not answer. The defense moved to compel on September 18. The State did not respond to the motion. On October 2, 2026, the Court directed the State to respond by noon on October 8, explaining that it wished to address these evidentiary issues at the October 16 hearing "so there will not be a delay in our trial date." Near the last hour of the Court's deadline, the State filed a two-page response stating that it is "happy" to produce what the defense asked for on September

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15. A one-sentence email on September 16 or 17 would have accomplished the same thing, without a motion, without an order of the Court, and three weeks sooner.¹

The State's response says that the motion is "moot." It is not moot until the data are produced. The response does not say when SLED will produce them, and it does not address the components of the raw data identified in the September 15 letter and in paragraph 12 of the motion — the individual .fls scan files, the complete SCENE project folder with its project file and registration data, the registration and scan-position report, the panoramic image data, the scanner make, model, and serial number, the scan dates, times, and operator, the processing logs, and hash values for the native files. The defense assumes the State's reference to "the original scans" means all of that and asks the Court to enter an order saying so, with a date certain for production. As with the telephone extractions, the defense will deliver a suitable external drive to the State or to SLED on request. If the data are delivered at or before the October 16, 2026, hearing, nothing will remain for the Court to decide, and the motion would then be moot.

The Court has set trial for April 5, 2027, and has said it does not intend to move it. The defense's reconstruction experts cannot begin the work that depends on this data until they have it, and that work must be completed, and disclosed, well before April. The defense asked the State to confirm it would provide this data. Instead of responding, the State waited for a motion to compel, then waited for the Court to order a response, then waited until almost the last hour of the deadline to respond, just to agree to the request. This type of recalcitrance, if it continues, will make it difficult to keep the April 5, 2027, trial date.

¹ The response also has an irrelevant narrative about the defense not requesting this data for the first trial. The defense has never claimed the State withheld this data in the first trial. The defense simply asked for the data, and the State refused to respond. That is why the defense filed a motion to compel.

Respectfully submitted,



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**REPLY IN SUPPORT OF MOTION TO
COMPEL PRODUCTION OF .300
BLACKOUT BALLISTIC EVIDENCE**

Defendant Richard Alexander Murdaugh replies to the State's Response in Opposition to Defense Motion to Compel Ballistics Examination with Unrelated Cases of October 8, 2026.

The State agrees to produce the IBIS and NIBIN records requested in paragraph 8 of the motion: "any data SLED has responsive to this request." (State's Resp. at 11.) The Court should order that production by a date certain and should make clear that it includes, for the Moselle cartridge cases and for the cartridge cases from the April 25, 2026, homicide of Frank Brown and the April 27, 2024, Allendale shootings, the acquisition records, the correlation requests and correlation review reports, the candidate lists, and the dispositions. The State's Exhibit B, the IBIS entry log from the SLED firearms case file in this case, is not that. It shows what was entered; it does not show what the correlations returned. The State's representation that NIBIN "yielded zero leads" rests on the correlation reviews, and the defense is entitled to see them.

The State's central point is that NIBIN "has already mathematically ruled out a correlation" between the Moselle cartridge cases and the Allendale cases, so that an examination by a firearms examiner would be pointless. (State's Resp. at 5.) NIBIN does no such thing. NIBIN is, in the State's words, a "technological gatekeeper" that flags candidates for "manual microscopic examinations," which "occur after positive NIBIN hits." (*Id.* at 6.) A correlation is an automated comparison of digital images that returns a ranked list of candidates for a technician to review. An

entry that produces no “lead” is an entry no technician flagged. It is not an examiner’s exclusion, and the State does not represent that any examiner has compared the Moselle cartridge cases to the Allendale cartridge cases under a microscope. That comparison is what paragraph 9 of the motion requests — for two cases, by a defense examiner, at the SLED laboratory, under a protective order and whatever conditions the Court imposes. The burden on SLED is the time it takes to retrieve two evidence envelopes and to have an agent in the room.

The State’s materiality argument assumes its conclusion. Evidence that a weapon the State says Mr. Murdaugh hid has since been fired by someone else would be favorable and material by any standard. Whether such evidence exists is what the comparison would show, and the State cannot withhold the comparison on the ground that the defense has not yet shown what it would reveal. *Cf. State v. Proctor*, 358 S.C. 424, 429 n.7, 595 S.E.2d 480, 482 n.7 (2004) (defense counsel entitled to “look behind” the State’s representations concerning laboratory results). The third-party-guilt cases the State cites govern what may be offered at trial, not what may be examined before it; the defense cannot make the showing *State v. Gregory* requires without the examination the State refuses. And *Holmes v. South Carolina*, which the State cites in its favor, vacated a South Carolina capital conviction because the state courts had excluded third-party-guilt evidence on the strength of the State’s forensic case, which is the reasoning the State offers here. 547 U.S. 319, 328–31 (2006). The State’s observation that a match to the Allendale cases “does not exclude Defendant’s use of the missing Murdaugh family Blackout rifle some five years earlier” is an argument for the jury, which would also hear that the State’s theory in 2023 was that the rifle went to Almeda in Mr. Murdaugh’s hands and was never seen again.

The State says SLED possesses no list responsive to paragraphs 7, 10, or 11. Yet its Exhibit A is a list responsive to paragraph 11: SLED’s own query of NIBIN, by year, for .300 Blackout

entries at South Carolina sites — forty-two in 2021 and eighty-one in 2022, one hundred twenty-three before the first trial began. (State’s Resp. at 10 & Ex. A.) That list was generated in days, from the same database that holds the case number, agency, and date for each entry. The information requested in paragraphs 7 and 10 is a query of the same database, and the State’s response does not say otherwise; it says only that no list exists, which is true of every list before it is run. The SLED Crime Book, to which the State refers, reports aggregate offense statistics; it does not identify the cases in which .300 Blackout cartridge cases were recovered.

As to *Giglio*, the State’s position is that “both assertions are true given the time period being discussed.” (State’s Resp. at 10.) That is not what the jury heard in 2023. It heard the State’s case agent testify that .300 Blackout weapons “were just not that common” and that he had worked no case in which one was the murder weapon, and it heard the State argue in closing that “[a] family Blackout killed Maggie” and that the family weapon is “gone now.” (Trial Tr. 1051–52, 5619.) It did not hear that SLED’s NIBIN sites held one hundred twenty-three .300 Blackout entries from the preceding two years, or that the caliber was, in the State’s present description, “the second most popular cartridge for AR chambering in the United States.” (Mot. Ex. B at 2.) Whether the State’s witness will say the same thing at the retrial, and what the defense may use to cross-examine him if he does, is the *Giglio* question. It is answered by producing the records, as of January 23, 2023, that paragraph 11 requests — records the State’s Exhibit A shows it can produce.

The defense therefore asks the Court to grant paragraphs 7 through 11 of the motion, with the examination requested in paragraph 9 to proceed under such conditions as the Court directs, and to set a date certain for production.

Respectfully submitted,



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**REPLY IN SUPPORT OF MOTION TO
COMPEL PRODUCTION OF DNA
EVIDENCE**

Defendant Richard Alexander Murdaugh replies to the State's Response to Defense Motion to Compel Production of DNA Evidence of October 8, 2026.

Much of the relief requested is not opposed. The State represents that the remaining material and extract from Item 25.1 "were preserved after analysis and remain preserved" (the first part of paragraph 1); that SLED "will provide" the STRmix project folder for Item 70 and the GeneMapper ID-X project files for Items 25.1, 70, and 71 (paragraph 6); that it will produce whatever among the communications requested in paragraph 5 is discoverable under Rule 5 and *Brady*; and, as to paragraph 4, that SLED has "no specific communication regarding Y-STR testing" on the three items and that the analyst's reasons are documented in the June 25, 2021, report and the case file. (State's Resp. at 7–8.) The defense accepts those representations, asks that the Court's order recite them, and asks that the State produce the material it has agreed to produce by a date certain. The defense understands the GeneMapper and STRmix files to include the native electrophoresis data for all three items; if they do not, the defense asks that paragraph 3 be granted as well.

Two things remain. The first is paragraph 2: whether the defense may proceed with Othram's analysis of the material from Items 70 and 71 without first submitting its testing plan to the State for approval. The State says it is "entitled to be privy to Othram's process and data" and

to “an opportunity to object before the defense permanently consumes” the material. (State’s Resp. at 6, 8.) Three points in reply.

First, the Court has already ruled. On August 14, the Court ordered the extracts and reserve samples sent to Othram for quantification, directed that the results be reported before further testing, and said that there would then be “a discussion with” counsel. (Hr’g Tr. 80, Aug. 14, 2026.) The defense reported the results on September 11 and invited the discussion. (Mot. Ex. A.) The State’s September 17 letter did not state an objection; it asked questions and proposed “another conversation between the experts.” (Mot. Ex. B at 2.) The State’s October 8 response now states its objection: it objects to any testing that consumes the material. That objection is before the Court, the discussion the Court contemplated has taken place in writing, and the question is ripe for decision on October 16. The Court should decide it rather than order, as the State proposes, another round of consultation after which the State would have “an opportunity to object” again. The Court observed on August 14 that Othram would need ninety days at least and that “we need to get it started.” (Hr’g Tr. 80, Aug. 14, 2026.) Every week of further consultation is a week taken from those ninety days.

Second, the State’s objection is to the arithmetic of a trace sample, not to anything Othram proposes to do. The State’s own response reports the quantities. (State’s Resp. at 3–4.) The extracts hold male DNA at 0.001 and 0.002 nanograms per microliter; the reserve samples hold less. The State asks why Othram cannot leave behind “testable extract” for SLED as SLED left for Othram. The answer is that SLED tested these items first, in 2021, in its own laboratory and by its own methods, on no notice to the defense, and the material now at Othram is what SLED left behind. A sample at this concentration cannot be divided and still yield a result; dividing it guarantees that neither laboratory obtains one. The State’s demand that the defense leave a portion

untested is a demand that the defense not test at all. If the State wanted its own analysis of the male DNA on Maggie Murdaugh's fingernails, it has had five years and exclusive custody in which to perform it, and it chose not to. (Mot. at 7.)¹

Third, the State's authorities do not support a veto. The California decisions the State cites hold that a court may condition defense testing on the prosecution's receiving the results. (State's Resp. at 6.) Neither holds that the defense must disclose its methodology, its purpose, or its anticipated result before it tests, which is what the State asks and what paragraph 2 asks the Court to deny. In South Carolina, the State's entitlement to the results of defense testing is governed by Rule 5(b)(1)(B), SCRCrimP, which requires the defense to produce the results and reports of scientific tests it intends to introduce at trial or that relate to the testimony of a witness it intends to call. The defense will comply with that rule, as it must. The statute the State cites, S.C. Code Ann. § 17-28-70(A), concerns the preservation of evidence "related to the applicant's conviction" in post-conviction DNA proceedings. Mr. Murdaugh's conviction has been vacated, and the statute says nothing about whether a defendant awaiting trial may test evidence that the Court has released to his laboratory.

Finally, although the Court's August 14 ruling does not require it, the defense states here, in the spirit of the discussion the Court contemplated, what the testing will be. Othram will perform Y-chromosome STR analysis on the material from Items 70 and 71, and on Item 25.1 once it is transferred. That is the analysis SLED did not perform in 2021 notwithstanding a positive male quantitation in each of the three items. (Mot. at 7–9.) Y-STR analysis targets only the male

¹ The State's account of what Othram said on the July 7 conference is the State's, and the defense does not adopt it. Othram's quantitation of September 11 speaks for itself: it detected male DNA in the extracts from both Item 70 and Item 71, including Item 71, for which SLED reported no foreign alleles at all. (Mot. Ex. A; Mot. at 6.)

DNA in a sample, which is why it is the appropriate test for material in which the female contributor is known, and the only question is the identity of the male. Othram can perform the test through its wholly owned subsidiary Sorenson Forensics, which is fully accredited to perform this test. The State now knows what is proposed, by whom, and why. Nothing remains to consult about.

The second remaining issue is the transfer of Item 25.1. Paragraph 1 asks that SLED preserve the remaining swabs and extract from Maggie Murdaugh's telephone, conduct no further examination of them, and transfer them to Othram under a documented chain of custody, as it did the fingernail material. The State confirms preservation and says nothing about transfer, except that "[w]ith further information, the State would be happy to consider steps as to remaining extract or material as to Item 25.1." (State's Resp. at 8.) That is not agreement, and it is the same answer the State gave on September 17. (Mot. Ex. B at 2.) Transfer consumes nothing. It moves the material from one accredited laboratory to another under a chain of custody the State has said it will not challenge, and it is the step the Court ordered for Items 70 and 71 on August 14 over the same objection. The State's only other point is that SLED found the profile unsuitable for comparison. (State's Resp. at 6–7.) The motion explains why that conclusion does not survive SLED's own data and its own manual: a positive male quantitation, called a Yindel allele, results at fifteen loci, two alleles that belong to neither victim, one of which Mr. Murdaugh's own standard cannot account for either, and no Y-STR analysis, no deconvolution, and no documented reason for declining to declare a number of contributors. (Mot. at 8–9.) The State's response does not address any of it. The Court should order the transfer now, on the same terms as Items 70 and 71, so that Othram can perform testing.

The defense therefore asks the Court to grant paragraphs 3 through 6 of the motion on the State's representations, with a date certain for production; to grant paragraph 1 in full, including the transfer of Item 25.1 to Othram; and to grant paragraph 2 and confirm that the defense may proceed with Items 70 and 71.

Respectfully submitted,



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**REPLY IN SUPPORT OF MOTION TO
COMPEL DISCLOSURE OF EVIDENCE
CONCERNING THE DISPOSAL OF THE
MURDER WEAPONS**

Defendant Richard Alexander Murdaugh replies to the State's Response to Defendant's Motion to Compel Disclosure of Evidence Concerning the Disposal of the Murder Weapons of October 8, 2026. The response is notable for what it does not say.

It does not deny that SLED received, in 2023, a statement that a police chief spoke of arriving early at the scene and of providing Mr. Murdaugh a change of clothes, and that the weapons and clothing were taken to a police station. It does not deny that the lead case agent knew of it. It does not deny that nothing was done with it until August 2026, or that the State told the Court on August 14 that it knew of no discovery issues seventeen days before its lead prosecutor caused the State Grand Jury to subpoena Chief Alexander. And it does not address the distinction on which the motion turns. A statement given to SLED agents in 2023 is not "the testimony of a witness examined before a state grand jury or other evidence received by it," S.C. Code Ann. § 14-7-1720(A), and the State's later decision to present the subject to a grand jury does not retroactively seal SLED's investigative file. (Mot. at 10–11.)

The response for some reason devotes two of its three pages to the record of the first trial showing that Chief Alexander and Mr. Murdaugh were friends. But the State does not say what follows from it. If the point is that a statement implicating a friend of the accused in the disposal of the weapons is not favorable to the accused, the point is wrong. Evidence that the weapons left

the scene in someone else's hands contradicts the theory the State tried — that Mr. Murdaugh alone carried them to Almeda — and impeaches every witness who presented that theory, whatever explanation the State may now offer. *Brady* reaches impeachment as well as exculpation, *Giglio*, 405 U.S. at 154, and it is not for the prosecutor to withhold favorable evidence because the prosecutor has an explanation for it. If the point is instead that the State intends to try a different theory in April, one in which others participated, then the defense is entitled to know that too. (Mot. ¶ 7.)¹

The State closes by saying that it “is aware of its *Brady* obligations and will comply if and when those obligations are triggered.” (State’s Resp. at 2.) Those obligations were triggered when SLED received the statement. *Kyles*, 514 U.S. at 437. The State said much the same thing on August 14, and the defense learned of this evidence from a newspaper six weeks later. An assurance of future compliance from a party that has not disclosed what it already holds is not a response to a motion to compel.

The defense asks the Court to direct the State to respond forthwith to paragraphs 1 and 2 of the motion, which concern SLED’s investigative materials and are not grand jury material on any reading of the statute, and to take the motion up at the October 16, 2026, hearing. As to the State Grand Jury testimony requested in paragraphs 4 through 6, the Court need not take the State’s characterization of it on faith, and it need not take the defense’s. The defense suggests that the Court direct the State to submit the transcripts of that testimony to the Court for review in camera.

¹ It is notable that SLED received this information in 2023, plainly did not believe the information to be credible given that it did not act on it, and then now only after a new trial has been ordered has the State issued subpoenas for witnesses to appear before the grand jury on this matter. But whatever the State’s motivations may be, the defense is entitled to know if the State intends to change its theory of what happened to the murder weapons, and is entitled to view the evidence supporting the State’s new, apparently fluid, narrative.

Section 14-7-1720(A)(5) authorizes disclosure “when directed by a court” for the purpose of “complying with constitutional, statutory, or other legal requirements or to further justice,” and it leaves the manner, time, and conditions of disclosure to the Court; our Supreme Court has held that when the State resists, “[t]he burden of proof is on the State to demonstrate why the documents should not be released,” and that in camera review is available to the court for that purpose. *Evans v. State*, 363 S.C. 495, 513–14, 611 S.E.2d 510, 520 (2005). Having read the transcripts, the Court will be in a position to determine what is *Brady* material, what the defense is entitled to under Rule 5, and on what terms it should be produced.

Respectfully submitted,



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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 9, 2026, I did serve via electronic delivery the following documents to the below mentioned person:

Documents:

1. Reply in Support of Motion to Compel FARO Data;
2. Reply in Support of Motion to Compel .300 Blackout Ballistic Evidence;
3. Reply in Support of Motion to Compel DNA Evidence; and
4. Reply in Support of Motion to Compel Concerning the Disposal of the Murder Weapons

Served: Creighton Waters, Esquire
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Holli Miller

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