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STATE OF SOUTH CAROLINA **COUNTY OF GREENVILLE**	**COURT OF GENERAL SESSIONS** **THIRTEENTH JUDICIAL CIRCUIT**
State of South Carolina, v. Zachary David Hughes, Defendant.	Indictment Nos. 2022-GS-23-02194 , 2024-GS-23-05412, 5413, and 5425A 2022A2330216207,08, 2023A2330208126, 27 **MOTION TO DISMISS**

Defendant argues he is entitled to a new trial on the basis that the State "deliberately and intentionally misled the trial court" regarding the existence and nature of exculpatory evidence that was "critical" to his defense, attempted to "restrict" Defendant's access to such evidence, "suppressed" such evidence, and "moved to secretly silence defense counsel" from talking about the evidence publicly. (Mtn. for New Trial at 1). Specifically, he argues the State suppressed evidence proving that the victim in this case, Christina Parcell, sexually abused her minor daughter. He argues such evidence, if properly presented before the jury, would have made an outcome in his case. *Id.*

In response, the State makes the following motion to dismiss, arguing first, such "evidence" is not new since the investigative material at issue here is the same material seized by law enforcement, the same material Defendant accessed multiple times pre-trial, and the same material used to prosecute Bradly Post. There is no new investigative material. Furthermore, a prosecutor's subjective assessment of evidence in a case for purposes of making charging and plea decisions is not new evidence. Second, Defendant wholly fails to show entitlement to the requested relief and such efforts must fail as a matter of law given that the uncontested facts of the case conclusively demonstrate that even if such evidence was presented to the jury, it would still provide no legal justification for Victim's brutal murder. Even if Victim was a sexual abuser, Defendant was not

legally entitled to be her judge, jury, and executioner. Such a defense, if accepted, would invite lawlessness and disrepute for the rule of law.

In support of the Motion, the State would respectfully show the Court:

BACKGROUND

On the morning of October 13, 2021, Defendant killed Christina Parcell (Victim) by brutally stabbing her to death inside her Greer home. Throughout the course of this litigation, Defendant has never contested identity. In fact, at trial, he testified in extensive detail to the steps and planning leading up to Victim's demise, the crime itself, and the steps taken afterwards to conceal his criminal acts from law enforcement. (*See* Exhibit A at 5–28 (Trial Excerpts)). His sole defense was that he had to kill Victim to save Victim's minor daughter from ongoing sexual abuse at the hands of Victim and Victim's at-the-time fiancé Bradly Post. Corroborating Defendant's own detailed admissions, the State presented significant evidence at trial demonstrated Defendant's planning, execution, and attempted cover-up of his crimes. The State also presented uncontested evidence that at the time of Victim's death, she was alone at her home, and her minor daughter was safely at school. (*See* Exhibit A at 1–4; Exhibit B at 13–16 (Appellate Brief Excerpts)).

Unsurprisingly then, on February 20, 2025, a jury found Defendant guilty of Victim's murder, in addition to first-degree burglary, a weapons charge, and a dual harassment and conspiracy to commit harassment charge relating to Defendant's scheme with Victim's estranged co-parent John Mello to harass Victim and her fiancé Post.[1] Defendant timely sought a direct appeal, raising twelve issues to the Court of Appeals, six of which are pertinent to the current

[1] For more detail into the custody dispute between Victim and Mello underlying the facts of this case, or the facts generally, *see* Exhibit B at 5–16 ("Statement of Facts").

motion:

1. Did the trial court err when it refused to instruct the jury on the defense of others, when Hughes was prepared to present evidence to the jury on each and every element of the defense of others sufficient to warrant a jury instruction on the defense of others?
2. Did the trial court err when it excluded evidence of Bradly Post's participation in the production and/ or distribution of child pornography, even though he "opened the door" to such evidence while testifying on cross-examination pretrial?
3. Did the trial court err when it refused to instruct the jury that to prove "malice" for Murder the State had to prove that Hughes acted "without just cause or excuse?"
4. Did the trial court err when it excluded evidence of Christina Parcell's participation in the production and/ or distribution of child pornography, even though the State "opened the door" to such evidence during Vanessa Kormylo's direct examination?
5. Did the trial court err when it prevented Hughes from telling the jury why he killed Christina Parcell?
6. Did the trial court err when it prevented defense counsel from asking Bradly Post on cross-examination about the nature of his pending charges and the possible penalties he faced if convicted of these charges?

(Excerpt B at 2–3) (issues renumbered); *see also generally State v. Zachary D. Hughes*, App. Case No. 2025-00367 (appellate court docket).[2]

On June 22, 2026, the State filed its Initial Brief of Respondent. Thereafter, on June 30, 2026, Defendant filed a "Motion to Stay Appellate Proceedings and For Remand to Circuit Court," pursuant to Rule 29(b), SCRCrimP, asking the Court of Appeals to remand the case to this Court for purposes of pursuing a motion for new trial based on after-discovered evidence. (*See* Exhibit C (Motion to Stay/Remand)). Therein, Defendant argued that the State's representations at Bradly Post's guilty plea to crimes involving child exploitation thirteen months after Defendant's trial regarding Victim's participation in child exploitation represented an irreconcilable change in position that could only be explained by the State's own discovery of new evidence or the State's

[2] The State also notes that for purposes of the appeal, Defendant's separate issues regarding CSAM and Post/Victim were combined into one argument.

intentional misrepresentation to the trial court that such evidence did not exist. *Id.*

On July 1, 2026, the State filed a Return to Defendant's motion opposing a remand on the basis that, even assuming the State discovered new evidence of Victim's participation in child exploitation or that the State misrepresented the facts of the same, this could never provide a basis for new-trial relief since the uncontested facts show Defendant brutally attacked and killed Victim in her home while her minor daughter was safely at school. (*See* Exhibit D (Return to Motion to Stay/Remand)). Thus, regardless of whether Victim and/or Post abused Victim's minor daughter, Defendant could never show relevance of such to any legal defense to excuse Victim's murder. *Id.*

On July 21, 2026, the Court of Appeals issued an order granting Defendant's request for a stay and remand for this Court's consideration of Defendant's motion for a new trial based on after-discovered evidence, on the basis that only the trial court could assess the merits of a motion for a new trial. (*See* Exhibit E (Order Granting Remand)). The Court instructed Defendant to file status updates with the Court every thirty days pending the disposition of said new-trial motion. *Id.* On October 21, 2026, Defendant filed his Motion for New Trial.

This Motion to Dismiss now follows.

DISCUSSION

In order to prevail on a motion for a new trial based on after-discovered evidence, a defendant must show the after-discovered evidence: "(1) is such that it would probably change the result if a new trial were granted; (2) has been discovered since the trial; (3) could not in the exercise of due diligence have been discovered prior to trial; (4) is material; and (5) is not merely cumulative or impeaching." *State v. Spann*, 334 S.C. 618, 619-20, 513 S.E.2d 98, 99 (1999).

As a threshold matter, and relevant to elements two and three, the State questions whether the "evidence" at issue here is even new or after-discovered at all. Pre-trial, Defendant, through

counsel, accessed materials relating to the CSAM/exploitation investigation into Bradly Post multiple times in preparation for trial. These are the same materials the State initially recovered from Post's devices and then later used and reviewed to prosecute Post, eventually resulting in his guilty plea. Moreover, the State's position regarding Victim's alleged participation in CSAM or exploitation generally has not changed either. Though she appears in the exploitation material with her minor daughter (as acknowledged at Post's guilty plea), as of Defendant's trial, there was and as of today is no way to legally substantiate any charge that Victim herself was guilty of child exploitation or the production of CSAM. Victim was dead—and her alleged co-conspirator Post was unavailable as a witness since he himself was charged and invoked his Fifth Amendment right against self-incrimination.[3] There were no other witnesses. Thus, there was no way to prove or disprove that Victim was an active and willing participant *or* that she was doing so under duress. Defendant reads too much into the statements made at Post's guilty plea. Such statements, the State contends, are more indicative of prosecutorial discretion and decision-making relating to evaluating the strength of a case and whether to offer a plea deal—rather than offering an objective, binding determination of the strength of a hypothetical criminal case against a dead person.

Thus, neither the investigative materials themselves nor the State's alleged change in position constitute new evidence for purposes of maintaining a motion for new trial based on after-discovered evidence. In the same way, because the material is the same and the State's position has not changed, Defendant fails to show such "evidence" was discovered after the trial or that it could not have been discovered through due diligence before the trial.

As to the first element, the State contends—as it has consistently done so throughout the

[3] Similarly, at the time of Defendant's trial, Post's charges were not legally substantiated as they were still pending at that time—Post had invoked his Fifth Amendment right against self-incrimination and was equally entitled to the presumption of innocence.

course of this case—that any evidence tending to show or prove that Victim sexually abused her minor daughter could never support any legally viable defense. Self-defense is not applicable in this case because Defendant forcibly broke into Victim's home and stabbed her to death, meaning he brought on the difficulty by seeking out Victim and committing an unlawful act, and there were other probable means of avoiding the danger. *See, e.g., State v. Bryant*, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999) ("Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars his right to assert self-defense as a justification or excuse for a homicide."); *State v. Brown*, 321 S.C. 184, 467 S.E.2d 922 (1996) ("[W]here the attacker is the homeowner, a lawful guest has a duty to retreat before a claim of self-defense will stand.").

Defense of others, a corollary of self-defense, is not applicable for the simple fact that Victim's minor child was safely at school at the time of Victim's death and thus could not have been in danger of great bodily injury and/or death. *See State v. Starnes*, 340 S.C. 312, 323, 531 S.E.2d 903, 913 (2000) ("[I]n order for the trial court to give a defense of others charge, there must be some evidence adduced at trial that the defendant was indeed lawfully defending others.") (quoting *Douglas v. State*, 332 S.C. 67, 73, 504 S.E.2d 307, 310 (1998)); *State v. Otts*, 424 S.C. 150, 158, 817 S.E.2d 540, 545 (Ct. App. 2018) (defendant must prove, as to person they are defending, all the elements of self-defense, including the belief of imminent danger of death/great bodily injury or actual danger of the same). For purposes of brevity, the State incorporates by reference the arguments made on appeal as to why defense of others was not an appropriate defense theory in this case. (*See* Exhibit B at 17–23). It remains inappropriate today.

Finally, Defendant cannot undercut malice or show prejudice generally when he directly admitted to the planning, execution, and cover-up of Victim's murder. (*See* Exhibit A at 5–28).

Said another way, any evidence, new or old, showing that Victim sexually abused her minor child was not relevant to any possible legal defense then, is not relevant now, and will not be in the context of a new trial.[4] Regarding the relevance of such evidence generally, the State incorporates by reference the arguments made on appeal as to why CSAM evidence generally and Victim/Post's alleged participation regarding the same was not relevant for the issues at Defendant's trial. (*See* Exhibit B at 32–39).

And because such evidence is not relevant and could not support any legally viable defense, it is also not material. It does not go to guilt, and it certainly does not go to innocence. At most, the evidence of sexual abuse and CSAM was merely impeaching of only one of the State's witnesses—Bradly Post, Victim's fiancé at the time who found Victim dead inside her home and then called 911. Such evidence could only impeach Post—and such impeachment would largely be performative and irrelevant given Post's minor role in the State's case. For further discussion of why such impeachment would be irrelevant and otherwise ineffective in supporting Defendant's defense, the State incorporates by reference the arguments made on appeal as to why impeachment of Post with the nature and facts surrounding his then-pending child exploitation/abuse charges was inappropriate and would not support Defendant. (*See* Exhibit B at 45–50).[5]

Defendant wholly fails to meet his burden on any of the five elements required to succeed on a motion for a new trial based on after-discovered evidence. As such, the State asks this Court

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[4] Furthermore, as evidenced by Defendant's failed attempts to testify as to "why" he killed Victim in the face of the trial court's prohibition on the use of any self-defense or defense-of-others theory, there is simply no other legal defense available to his conduct. (*See* Exhibit B at 32–36). Defendant also failed to argue that he had a "just cause or excuse" to kill Victim such as to defeat malice. *Id.* at 24–31.

[5] To the extent that such evidence somehow also impeached Lutina Parcell, Victim's sister, the State contends such impeachment would be unavailing where Lutina only generally testified to the ongoing custody dispute between Victim and Mello prior to the murder, and to receiving the harassing packages later proved to be sent by Defendant.

to summarily dismiss this matter.

CONCLUSION

WHEREFORE, the State asks this Court to grant its Motion to Dismiss Defendant's Motion for New Trial and requests an expedited hearing for oral argument regarding the same.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

P. SANDERS LINKER
Assistant Attorney General

CYNTHIA SMITH CRICK
Solicitor, Thirteenth Judicial Circuit

BY _____
P. Sanders Linker
S.C. Bar No. 107688

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-0918

ATTORNEYS FOR THE STATE

Columbia, South Carolina
October 23, 2026

FITSNEWS

STATE OF SOUTH CAROLINA **COUNTY OF GREENVILLE**	)	**COURT OF GENERAL SESSIONS** **THIRTEENTH JUDICIAL CIRCUIT**
State of South Carolina, v. Zachary David Hughes, Defendant.	)	Indictment Nos. 2022-GS-23-02194 , 2024-GS-23-05412, 5413, and 5425A **CERTIFICATE OF SERVICE**

I certify that I have served the State's Motion to Dismiss on October 23, 2026, by delivering a copy of the same to Defendant's attorneys of record, Andrew Moorman, Esq. and Mark Moyer, Esq., at their email addresses: andy@andymoormanlaw.com & mark@markmoyerlaw.com, respectively.

Respectfully submitted,

October 23, 2026

s/ P. Sanders Linker
P. Sanders Linker
Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-0918

Attorney for the State

FITSNEWS