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On January 10, 2024, thirty-five years after Justin Turner was killed, Megan Turner and Victor Turner were arrested on Warrant Numbers 2024A0810200038 and 2024A0810200037, respectively. On February 7, 2024, this Court heard the Turners' Motion for Bond. On February 14, 2024, the Turners filed separate Motions to Dismiss the Warrants for Undue Pre-Indictment Delay. The Court held a hearing on Megan Turner's motion on March 14, 2024. During the March 14th hearing, the Court heard testimony and argument from Megan Turner's counsel in support of the Motion to Dismiss. Victor Turner joined in these arguments.

LEGAL STANDARD

Although each cold cases is unique, the Supreme Court has established clear guidelines for determining whether the charges should be dismissed for undue delay. "The Due Process Clause plays a limited role in protecting against oppressive pre-indictment delay." *State v. Brazell*, 325 S.C. 65, 72, 480 S.E.2d 64, 68 (1997); see *United States v. Lovasco*, 431 U.S. 783, 789–90, 97 S.Ct. 2044, 52 L.Ed.2d 752 (1977) (analyzing Due Process Clause of the Fifth Amendment with respect to pre-indictment delay); *United States v. Marion*, 404 U.S. 307, 324, 92 S.Ct. 455, 30 L.Ed.2d 468 (1971) (recognizing Due Process Clause of the Fifth Amendment provides basis for dismissing indictment as a result of pre-indictment delay).

This Court is guided by the South Carolina Supreme Court's decision in *State v. Lee*, 375 S.C. 394, 653 S.E.2d 259 (2007). In *Lee*, the Supreme Court held that excessive pre-indictment delay violated the Due Process Clause of the Fifth Amendment. *Id.* The Court adopted a two-prong inquiry when pre-indictment delay is alleged to have violated a defendant's due process rights:

"First, the defendant must prove that the delay caused substantial actual prejudice to his right to a fair trial. The second prong requires the Court to consider the reason for the State's delay and to balance the justification for the delay against the prejudice to the defendant." *Id.* at 397, 653 S.E.2d at 260.

To prove substantial prejudice, a defendant must show that (s)he was “meaningfully impaired in [his or her] ability to defend against the State’s charges to such an extent that the disposition of the criminal proceeding was likely effected [sic].” See *State v. Brazell*, 325 S.C. 65, 480 S.E.2d 64 (1997) (citing *Jones v. Angelone*, 94 F.3d 900 (4th Cir 1996)).

The Court further stated that to satisfy the burden of showing substantial prejudice, a defendant “must identify the evidence and expected content of the evidence with specificity as well as show that he made serious efforts to obtain the evidence and that it was not available from another source.” *State v. Lee*, 375 S.C. 394, 653 S.E.2d 259 (2007).

The Court in *Lee* also discussed the second prong of the test – the reason for the State’s delay. “When balancing the prejudice and justification, the basic inquiry then becomes whether the government’s action in prosecuting after substantial delay violates “fundamental conceptions of justice” or “the community’s sense of fair play and decency.” *Id.* at 398, 653 S.E.2d at 261. The absence of any prosecutorial bad faith motive is not fatal to a defendant’s Fifth Amendment Due Process claim.

SUMMARY OF TESTIMONY AND EXHIBITS

1. The Turners have identified approximately twenty individuals who are deceased or medically unavailable. Further, as it relates to these deceased or unavailable witnesses, the Turners are unable to question or confront them, or make assessments of the substance of their potential testimony, all due to the State’s delay in bringing these charges.
2. In addition to individuals, there are several pieces of physical evidence that the Turners do not have the ability to gather, test or evaluate because the physical evidence no longer exists. These include the camper, clothes with urine stains, and a dog leash.
3. Detective John Plitsch was an employee of the Berkeley County Sheriff’s Department in 1989 and was re-hired in 2021 as a Cold Case detective. He was the only witness to testify at the

March 14, 2024, hearing.

4. In 1989, Megan Turner was charged based on inconsistent statements, a dog leash found in the kitchen, peculiar statements and questions to third parties, the proximity of the body to the Turner's residence, and law enforcement's claim that Megan Turner deviated from her normal morning routine on the morning Justin Turner went missing.

5. Victor Turner was not charged in 1989 because he had an alibi that he was at work at General Dynamics during the morning when Justin Turner disappeared.

6. Detective Plitsch believes that the new pieces of evidence that are important to his case are the reanalysis of the urine stain, the conclusion that the crime scene was staged, trace evidence of possible leather fibers on the victim's shirt, and possible polyester fibers on the dog leash.

7. In addition, the Berkeley County Sheriff's Office now believes that a dog collar was used in conjunction with a dog leash to strangle Justin Turner in March of 1989. In 2023, the Berkeley County Sheriff's Office purchased a dog collar from Wal-Mart, which they used with a leash similar to the one law enforcement recovered in the Turner's homes and a mannequin to assist an injury pattern expert to determine if Justin Turner was strangled with a collar and the recovered leash.

8. Because of the lapse in time, the dog has passed away and the collar he allegedly wore is unavailable. Both the dog and his collar would have been available in 1989.

9. Detective Plitsch testified that there was no new evidence in the case since the original arrest, but rather old evidence about which he formed new conclusions. (Hearing Transcript, p. 36).

10. When asked why Victor Lee Turner was now charged, Detective Plitsch said that "time analysis" and "that he, along with [Megan] Turner, are the last two people to have seen him alive."



(Hearing Transcript, p. 84-85) This time analysis is the result of the food, Cinnamon Toast Crunch, found in Justin Turner's stomach. This evidence is not new but a new conclusion from previously available evidence.

11. A recorded statement by expert, Dr Bill Oliver, was authenticated by Detective Plitsch in which he told detectives that his examination of the evidence indicated that the leash was not the murder weapon. Detective Plitsch testified that the expert changed his opinion only after a collar was introduced to the testing, and along with the leash, manipulated to make the pattern mimic the victim's injury.

12. At no point did the State declare a position as to their reason for the delay in bringing this charge against Victor Turner after thirty-five years.

13. At the March 14th hearing, Megan Turner offered in an alternative theory as to who may have murdered Justin Turner in 1989. Megan Turner's defense counsel suggested that an unknown, uninvestigated, third-party committed murders similar in fact and circumstances to the Justin Turner case. Specifically, Megan Turner introduced evidence that known serial killer Richard Mark Evontiz was present in the area and had an opportunity to commit the murder of Justin Turner that the State alleges Megan Turner and her Co-Defendant committed. Evidence was offered that Evontiz (who was in the Navy and assigned to the USS Kelsch) may have been docked in Charleston, South Carolina on or about March 2, 1989. The State of South Carolina requested additional time to further investigate any connection between Mr. Evontiz and Justin Turner's murder so that it may confirm or dispel this assertion. No evidence was recovered due to the passage of time. There are similarities in Justin Turner's case and the methods used by Richard Mark Evontiz in assaulting and murdering his victims. Megan Turner argued that had the case been fully investigated, there is a likelihood that an alternative suspect or theory could have been



developed.

FINDINGS OF FACT

1. Justin Turner was murdered on or about March 3, 1989. The Turners were arrested on January 10, 2024, and charged with Murder under warrant numbers 2024A0810200038 and 2024A0810200037.
2. Megan Turner was charged in February 1990 for the same charge based on the same facts after a Coroner's Inquest. The Murder charge against Megan Turner was dismissed in November 1990 after a Grand Jury declined to indict, citing a lack of evidence to support the charge.
3. In 1989, the State believed that Megan Turner strangled her son using a dog leash recovered in the kitchen of the Turner's home. In 2024, the Berkeley County Sheriff's Office believes that Megan Turner strangled the victim using a dog leash and a dog collar. The State cited no new evidence substantiating what led them to this new conclusion.
4. In 1989, there were more than twenty witnesses who would have testified in this case who are no longer available to testify. The Turners have suffered substantial actual prejudice in that their ability to confront these witnesses would be meaningfully impaired and would impact the disposition of the criminal proceedings. This is a circumstantial evidence case which depends in part on supposedly incriminating statements made to third persons. Unavailability of those witnesses for cross-examination would be highly prejudicial to the defense.
5. No new evidence was presented at the March 14th hearing, and no other reason was offered to balance the prejudice alleged by the Defendant due to the pre-indictment delay.

CONCLUSION

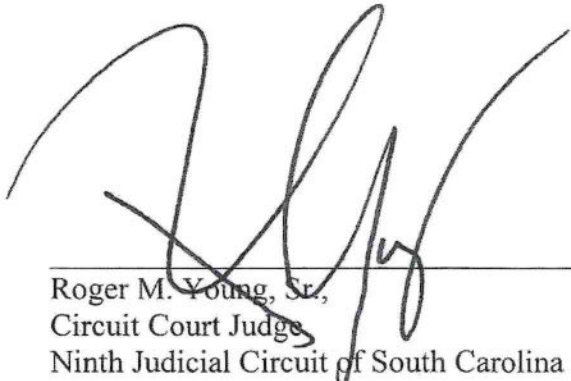
Based on the foregoing, and after careful consideration of the arguments from both sides, this Court concludes that the pre-indictment delay caused substantial actual prejudice to both



Defendants infringing upon their right to a fair trial. The Court further finds that the prejudice to the Defendants far outweighs any reasons for the delay – reasons the State of South Carolina has failed to identify in this case.¹ Nevertheless, the Court finds no prosecutorial bad faith in the prosecution of this matter. Under the unique circumstances of this case, dismissal is appropriate under the factors set forth in *State v. Lee*, 375 S.C. 394, 653 S.E.2d 259 (2007).

IT IS THEREFORE ORDERED that Warrant numbers 2024A0810200038 and 2024A0810200038 are dismissed with prejudice and the cases forever ended.

AND IT IS SO ORDERED.



Roger M. Young, Sr.,
Circuit Court Judge
Ninth Judicial Circuit of South Carolina

June 6, 2024

¹ The evidence of a potential serial killer being present and unaccounted for during the time that Justin Turner was killed, while intriguing, has no bearing on the decision to dismiss this case.