No. 25-689

IN THE

Supreme Court of the United States

GEORGE SHARROD JOHNS,

Petitioner,

v.

STATE OF GEORGIA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF GEORGIA

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Does the Confrontation Clause bar a forensic pathologist from providing independent expert opinion testimony about wounds and cause of death where that testimony is based on her peer review of a draft autopsy report and of autopsy photographs separately admitted as evidence at trial?

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INTRODUCTION

Petitioner George Sharrod Johns's case presents a question on which he has identified no circuit split—or even another on-point judicial decision—and on which the Georgia Supreme Court was correct. Moreover, the answer to Johns's question presented has no bearing on the sustainability of his criminal conviction, anyway. This Court should deny his petition.

Johns stabbed James Cason to death and was convicted of murder. Johns was the last person seen with Cason, Cason's roommate overheard Cason pleading with Johns to stop hitting him, and blood stains containing Cason's DNA were found in Johns's apartment. Separate from all of that, forensic expert Dr. Karen Sullivan testified at Johns's trial that Cason had sustained 27 stab wounds, and that the stab wounds to Cason's chest caused his death. Sullivan had not conducted Cason's autopsy, but—in line with typical medical-examiner procedures—she had conducted an independent peer review of another analyst's draft autopsy report. As part of that process, she independently reviewed Cason's autopsy photographs (which were separately admitted at trial) and the investigator's case information.

Johns contends that, because Sullivan did not conduct an autopsy herself, her testimony violated Johns's rights under the Confrontation Clause. He relies on *Smith v. Arizona*, which held that when one analyst tests whether a substance is an illegal drug and prepares a report, a different expert witness cannot testify as "a surrogate merely reading from [the testing analyst's] records." 602 U.S. 779, 800 (2024). Johns offers a superficial analogy to *Smith*, which he says barred Sullivan's testimony and requires reversal of the Georgia Supreme Court. Johns is

wrong on the merits, but that is far from the only reason to deny his petition.

To start, Johns has not identified a relevant split of authority. Even on the surface, his purported split is shallow and underdeveloped. He points to only two state courts of last resort and one federal appellate court that have addressed *Smith* at all. And the only courts on the other side of his supposed split are three intermediate state appellate courts and the Navy-Marine Corps Court of Criminal Appeals. Clearly—and unsurprisingly—no broad, entrenched split has materialized in the mere 20 months since *Smith*.

But there's a deeper problem: The courts Johns identifies are not split on the question presented by *this case*. Those decisions, like *Smith*, involve drug or DNA testing, and any split among them turns largely on whether the underlying testing consisted of mechanically generated raw data. None of that has anything to do with this case. The testing context addressed in *Smith* (and lower court cases applying it) raises fundamentally different Sixth Amendment concerns than does the autopsy context here. Unlike testing, where the non-testifying analyst's procedures and outcome *are* the testimony and *cannot* be independently verified without either participating in or replicating the test, *see id.* at 798, autopsy-related testimony can, and often does, consist of independent, expert review of materials such as photographs. And, as the Georgia Supreme Court correctly explained, expert testimony about a victim's wounds and cause of death can be based on review of such materials without violating the Confrontation Clause. But regardless of the right *answer*, Johns offers no other case addressing that *question*. Without an on-point split, Johns's petition amounts to a

request for fact-bound error correction—precisely the type of intervention this Court "rarely grant[s]." S. Ct. R. 10. The Court should hew to its ordinary practice and deny the petition.

But even if Johns *had* identified a relevant split worthy of this Court's attention, his case would present a terrible vehicle for review. To start, Johns did not present any *Smith* arguments—much less the Confrontation Clause theories fleshed out in his petition—to the Georgia Supreme Court. Thus, even assuming the state high court erred, it would remain more than capable of correcting any error should a future criminal defendant actually present Johns's new *Smith* arguments. Johns's failure to litigate the issue below poses another problem: Under *Smith*, a court must "consider *exactly* which of [the witness's] statements are at issue." 602 U.S. at 801 (emphasis added). But Johns never told the Georgia Supreme Court which pieces of Sullivan's testimony violated his Sixth Amendment rights—and hardly improves his specificity here. More still, any Confrontation Clause violation here was plainly harmless. For all these reasons, this Court should deny the petition.

STATEMENT

A. Legal Background

The Confrontation Clause prohibits the introduction at a criminal trial of an absent witness's testimonial statements unless the witness is unavailable to testify and the defendant has had a prior opportunity to cross-examine him. *Id.* at 783; *Crawford v. Washington*, 541 U.S. 36, 53–54 (2004). The focus of the Clause's guarantee is not the reliability of evidence, but the method of testing evidence through cross-examination. *Smith*, 602 U.S. at 784. The Clause applies only to out-of-court statements

that qualify as testimonial hearsay. *E.g.*, *id.* at 800. A statement is testimonial when the primary purpose for making it was for use in a future criminal proceeding. *See id.* And the "Clause bars only the introduction of hearsay—meaning, out-of-court statements offered to prove the truth of the matter asserted." *Id.* at 785 (quotation omitted).

The Confrontation Clause "applies to forensic reports." *Id.* at 785 (citing *Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 308 (2009)). In *Melendez-Diaz*, the prosecution introduced at trial "certificates of analysis"—effectively affidavits—bearing laboratory analysts' attestations that chemical tests identified substances as cocaine. *Id.* The analysts themselves did not testify. *See Melendez-Diaz*, 557 U.S. at 308–09. This Court held the affidavits were testimonial hearsay and that the Confrontation Clause entitled the defendant to an opportunity to cross-examine the analysts who swore them. *Id.* at 311. Relatedly, the Confrontation Clause bars the admission of a non-testifying testing analyst's certification through the testimony of a surrogate witness who was not personally involved in the testing. *See Bullcoming v. New Mexico*, 564 U.S. 647, 657 (2011).

This Court's most recent decision in this area came in June 2024, with *Smith*. Like *Melendez-Diaz*, *Smith* involved a testing analyst's report concluding that a substance was a particular drug. 602 U.S. at 790. A different analyst, who was "familiar with the lab's general practices, [but] had no personal knowledge about [the] testing of the seized items," testified about the testing and results. *Id.* at 796. This Court rejected the argument that the witness was an independent expert because his opinions were in no sense independent; his testimony was

purely "predicated on the truth of [the testing analyst's] factual statements." *Id.* at 798. The testifying analyst had essentially recited the testing analyst's report; he could "opine that the tested substances were [certain drugs] *only because* he accepted the truth of what [the testing analyst] had reported." *Id.* (emphasis added). Such testimony "merely replicates, rather than somehow builds on, the testing analyst's conclusions." *Id.* at 799. The state used the testifying analyst as the testing analyst's "mouthpiece" by "relay[ing] what [the testing analyst] wrote down about how she identified the seized substances." *Id.* at 800. That was hearsay within the meaning of the Confrontation Clause. *Id.*

B. Factual Background

On November 10, 2022, Johns stabbed Cason to death. Pet.App.1a–2a. Cason shared an apartment with Gary Mack, and was friends with Johns, who visited their apartment often. Pet.App.2a. The night of the murder, Mack was watching television in his room when he saw Johns and Cason walk down the hallway to Cason's room. *Id.* Nobody else was with them. *Id.* Sometime after, Mack heard Cason pleading "don't hit me no more." Pet. App.2a–3a. Mack then saw Johns leave the apartment. Pet.App.3a. After calling Cason's name and hearing no response, Mack checked Cason's room, where he found Cason unresponsive and "laying on the floor up against the wall in a pile of blood." *Id.* (quotation omitted). Mack then locked the door to the apartment and noticed that Johns was moving the handle, trying to reenter. *Id.* Unable to do so, Johns left. *Id.* Mack then called 911. *Id.*

Police arrived around 6:00 pm to discover that Cason was covered in blood and appeared to be dead. *Id.* Informed that Johns had been present, police entered

Johns's apartment with his permission, where they conducted a sweep at around 6:59 pm. *Id.* Later that night, Mack "identified Johns as the person he saw leaving Cason's bedroom around the time of the killing." Pet. App.3a–4a. Law enforcement then "detained Johns and procured a search warrant," eventually arresting him by the end of the night. Pet.App.4a. Inside Johns's apartment, police found blood stains on a bathroom door and towel that contained Cason's DNA. *Id.*

The Fulton County Medical Examiner conducted an autopsy. Pet.App.11a. As "a general practice, autopsies performed at the Fulton County Medical Examiner's Office are peer-reviewed, meaning that a second pathologist independently reviews the autopsy photographs and the primary pathologist's draft report and that the peer-reviewing pathologist forms his or her own expert opinion as to the victim's cause and manner of death." Pet.App.11a–12a. Dr. Sally Aiken served as the primary forensic pathologist and prepared a draft report regarding Cason's autopsy. Pet.App.4a. Dr. Karen Sullivan conducted a peer review of the draft report and Cason's autopsy photographs. *Id.*

C. Proceedings Below

Johns was tried for Cason's murder in December 2023. Pet.App.1a. Johns objected to the admission into evidence of certain photographs taken before and during Cason's autopsy. Pet.App.7a. The photographs included different angles that showed "the location, severity, and extent of Cason's injuries, including the injuries to his chest and defensive wounds to his hands." Pet.App.7a–8a. The trial court overruled the objection as to all but one pre-autopsy photograph. Pet.App.8a.

Johns also objected to Sullivan testifying instead of Aiken because Sullivan "was not the person who performed the autopsy." Pet.App.10a. The trial court overruled that objection, too. *Id.* Sullivan "was qualified as an expert in forensic pathology" and she "testified that she concluded that Cason sustained 27" stab wounds. Pet.App.4a. Her testimony was that "Cason's autopsy photographs showed" stab wounds to the heart, aorta, and pulmonary trunk, "any one of which could have been 'independently fatal.'" *Id.* The "photographs also showed that Cason sustained" a stab wound on the left side of his neck and defensive wounds on his hands. *Id.* "Sullivan opined that the cause of Cason's death was 'stab wounds of the chest'" and that "Cason's injuries were consistent with homicide." *Id.* A jury convicted Johns. Pet.App.1a n.1.

The Georgia Supreme Court affirmed Johns's convictions. Johns challenged on appeal the sufficiency of the evidence and the trial court's decision to admit certain autopsy photographs, but the Georgia Supreme Court rejected both contentions. Pet.App.5a–10a. Also, Johns's brief to that court included a bare-bones recitation, devoid of accompanying argument, that Sullivan's testimony violated the Confrontation Clause. *See* Resp.App.9a–10a. He generically contended that the trial court "abused its discretion when it allowed" Sullivan "to provide substitute testimony on the autopsy of the victim." *Id.* He asserted, with no support, that Sullivan's testimony violated his "right to confrontation" because "Sullivan did not perform the autopsy." *Id.* And he recited the boilerplate rule that the Confrontation Clause bars "testimonial statements from unavailable witnesses, without prior opportunity to cross-examine, unless there is an exception 'established at the time of the founding.'" *Id.* (quoting *Crawford*, 541

U.S. at 36). Johns cited no decisions, from any court, other than *Crawford*. *See id.* And he did not attempt to explain which pieces of Sullivan's testimony ran afoul of the Confrontation Clause. *See id.*

The Georgia Supreme Court rejected Johns's conclusory argument. Pet.App.10a–13a. It noted that the prosecution generally cannot offer "the testimonial out-of-court statements of a forensic analyst at trial," Pet. App.11a (quoting *Smith*, 602 U.S. at 802–03), including by introducing an analyst's testimonial certification through the testimony of a non-participating analyst, *id.* (citing *Bullcoming*, 564 U.S. at 652). But it held that those "Sixth Amendment principles were not violated in Johns's trial." *Id.* The State did not introduce the autopsy report itself or any of the "materials prepared by Dr. Aiken," but only Sullivan's independent expert opinion. Pet.App.12a. Sullivan had, consistent with standard Fulton County Medical Examiner's Office procedures, conducted an independent peer-review: She reviewed "the case information that the investigator had prepared initially," the autopsy photographs of Cason, and Aiken's draft report. Pet.App.11a–12a. Thus, her independent opinion was not the mere "restatement of the diagnostic opinion of another expert." Pet.App.13a (quoting *Naji v. State*, 300 Ga. 659, 663 (2017)); *see also id.* (citing *Moody v. State*, 316 Ga. 490, 544–46 (2023); *Taylor v. State*, 303 Ga. 225, 230 (2018)).

REASONS FOR DENYING THE PETITION

Johns attempts to package his case as a tidy vehicle for bringing recalcitrant state courts into compliance with *Smith*—a decision issued just 20 months ago. This Court should not take the bait. Even a quick glance under the hood reveals (1) that Johns's proffered split of authority

barely qualifies for that description; (2) that the meager, underdeveloped split he does identify is tangential to the question actually presented in *this* case; (3) that Johns's case—marred by underdevelopment below and imprecision today—is a terrible vehicle for clarifying *anything* about *Smith*'s application in this context; and (4) that the Georgia Supreme Court's decision is wholly consistent with the Confrontation Clause and this Court's precedents. For all those reasons, this Court should deny Johns's petition.

I. There is no relevant split of authority.

Johns paints a picture of "widespread confusion and efforts to avoid this Court's holding in *Smith*." Pet.21. On closer inspection, Johns has—at most—identified a shallow, underdeveloped division among a handful of courts, some of which have not yet grappled with *Smith*. And even that overstates things, because Johns's proffered split is irrelevant to this case: Sullivan's autopsy-related testimony, and the Georgia Supreme Court's reasoning addressing it, differs materially from the drug- and DNA-testing testimony in *Smith* and the cases Johns cites. At bottom, Johns's petition seeks fact-specific error correction—not the restoration of legal uniformity this Court's "certiorari jurisdiction exists to" ensure. *City & Cnty. of San Francisco, Cal. v. Sheehan*, 575 U.S. 600, 610 (2015).

A. Johns does not identify a split that merits this Court's intervention.

Smith was decided roughly 20 months ago. That recency alone counsels against granting certiorari. Only a handful of state courts of last resort and federal appellate courts have had a chance to address *Smith* and its impact, if any, on their pre-*Smith* precedent. Proving the point,

Johns identifies only two state supreme courts and one federal appellate court as having addressed *Smith*'s application *at all*. Pet.12–13 (citing *State v. Thomas*, 334 A.3d 686 (Me. 2025); *Commonwealth v. Gordon*, 266 N.E.3d 369 (Mass. 2025); *United States v. Seward*, 135 F.4th 161 (4th Cir. 2025)). And even according to Johns, *those* courts are not divided: Each of them, he says, embraces his reading of *Smith*. *See id.* On the other side of the purported split, Johns points (of course) to the decision below. *But see* Parts I.B, II, *infra*. He has precious little else. Johns lists decisions from three *intermediate* state appellate courts (one of which is unpublished and expressly nonprecedential) and from the Navy-Marine Corps Court of Criminal Appeals. Pet.8–11 (citing *United States v. Dillenburger*, 85 M.J. 599 (N-M. Ct. Crim. App. 2025); *State v. Shea*, No. A23-1523, 2024 WL 4115377 (Minn. Ct. App. Sep. 9, 2024); *Gourley v. State*, 710 S.W.3d 368 (Tex. Ct. App. 2025); *State v. McElveen*, 406 So.3d 429 (La. Ct. App. 2024)).

A still-nascent split populated on one side by such decisions does not merit an outlay of this Court's limited certiorari resources. Nor should the underdeveloped state of the caselaw come as a surprise: Just 20 months after *Smith*, disputes about its application and scope have not yet percolated up to higher appellate courts. As such, this Court's premature intervention is unwarranted even accepting Johns's proffered split at face value.

B. Johns's proffered split is irrelevant to this case.

Assuming these decisions suggest *some* division of authority regarding *Smith*'s application, *this* case does not implicate it. The arguments Johns advances, the *Smith* decision he relies on, and the feeble split he identifies are all based on testimony about testing—

namely, drug testing and DNA testing. And there is at least a plausible argument that an expert who does not personally participate in such testing cannot form an independent opinion because he *necessarily* assumes that the testing expert performed tests correctly and reached certain results. But that is not true of the kind of autopsy testimony at issue here. An expert can (and here did) review autopsy photographs and independently identify the source of visible wounds and the cause of death. Johns identifies no split on the application of the Confrontation Clause to that or any analogous context.

A review of the decisions Johns collects illustrates the problem. Start with *Gordon*, *Thomas*, and *Seward*—the rulings Johns places on his side of the supposed split. Each involved a testifying expert who could not have reached an independent conclusion, because the *only* basis for his or her knowledge was the non-testifying expert's analysis. In *Gordon*, an expert testified about whether something was a controlled substance. 266 N.E.3d at 374. Because she had not participated in the chemical testing, her testimony entirely "depended on"—and replicated—"the [testing] analyst's notes" and conclusion. *Id.* The same was true in *Thomas*. 334 A.3d at 703–04. And in *Seward*, the expert testified about a DNA sample that she neither collected nor tested; she merely expressed "agree[ment] with the analyst['s]" findings. 135 F.4th at 168 (quotation omitted and alteration adopted).

Here, Sullivan's wound and cause-of-death testimony did not concern laboratory testing of any kind; it therefore could be, and *was*, supported by an independent factual basis. Sullivan testified that the autopsy photographs revealed 27 stab wounds, some of which could have been fatal; that the stab wounds to Cason's chest caused his

death; and that Cason's injuries were consistent with homicide. Pet.App.4a. Sullivan did not merely parrot Aiken's notes to reach that conclusion, nor was her testimony dependent on assuming the truth of anything Aiken had written down. Instead, Sullivan reviewed Cason's autopsy photographs and "the case information that the investigator had prepared initially." Pet.App.12a. And notably, several of those photographs were separately admitted at the trial. Pet.App.10a. Given all this, the decision below does not diverge from *Gordon*, *Thomas*, or *Seward*.

The other side of the split Johns identifies (*Shea*, *Gourley*, *Dillenburger*, and *McElveen*) is likewise irrelevant to Sullivan's testimony. Once again, those cases all involved either drug or DNA testing. *Shea*, 2024 WL 4115377, at *1; *Gourley*, 710 S.W.3d at 371–72; *Dillenburger*, 85 M.J. at 603–04; *McElveen*, 406 So.3d at 444–45. Once again, this context is materially distinct. *See supra* at 11. Moreover, the *Shea*, *Gourley*, and *Dillenburger* courts distinguished *Smith* because the testifying witness in each case had independently reviewed machine-generated or otherwise "raw data" without conveying the first analyst's notes or reports. *Shea*, 2024 WL 4115377, at *5; *Gourley*, 710 S.W.3d at 374–78, 378 n.3; *Dillenburger*, 85 M.J. at 609–10. But neither Sullivan's testimony nor the Georgia Supreme Court's reasoning had anything to do with *Smith*'s application to conclusions drawn from machine-generated raw data—making this side of Johns's split doubly irrelevant.

McElveen is even less useful to Johns. There, the Louisiana Court of Appeals reasoned that challenged DNA test results were properly introduced through a "participant in the process" of running the DNA tests,

which satisfied *Smith*. *McElveen*, 406 So.3d at 444–45. That routine application of *Smith* did not, and could not, create any split of authority relevant here. *Cf. Smith*, 602 U.S. at 803; *Gordon*, 266 N.E.3d at 374 (noting that "as in *Smith*, the substitute expert neither participated in nor observed the chemical testing performed by the analyst").

There are still more problems with Johns's purported split. In *Gourley*, *Shea*, and *Dillenburger*—the cases Johns characterizes as flouting *Smith*—the criminal defendants failed to preserve the *Smith* issue because they presented it for the first time on appeal. *See Gourley*, 710 S.W.3d at 375–76; *Shea*, 2024 WL 4115377, at *3; *Dillenburger*, 85 M.J. at 608–09. For this reason, *Shea* and *Dillenburger* expressly applied plain-error review. *Shea*, 2024 WL 4115377, at *3; *Dillenburger*, 85 M.J. at 608–09. Moreover, *Dillenburger* and *McElveen* held that any Confrontation Clause violation was harmless. *McElveen*, 406 So.3d at 445–46; *Dillenburger*, 85 M.J. at 610.

In the end, Johns's herculean efforts to identify a split of authority on *any* issue yield only a shallow, underdeveloped, and premature disagreement among courts that had no reason to pass on the distinct question actually presented in *this* case. It is far too soon to tell whether *Smith*—a just-minted Confrontation Cause precedent—will generate a durable, meaningful split regarding its application to independent testimony about autopsy-related evidence. Until and unless it does, this Court has no reason to intervene.

II. This case is an exceptionally poor vehicle for addressing the question presented.

Even setting aside the lack of a relevant split, this case represents a terrible vehicle for resolving anything

about the reach and application of *Smith*. To begin with, Johns failed to meaningfully develop his *Smith* claim before the Georgia Supreme Court. Johns's brief to that court—which featured just four pages of legal argument—devoted a mere *three sentences* to the Confrontation Clause. *See* Resp.App.9a–10a. Johns baldly asserted that because "Sullivan did not perform the autopsy of the victim," the "substitute testimony on the autopsy of the victim" violated his "right to confrontation." *Id.* His only supporting argument was that the "Confrontation Clause bars the admission of testimonial statements from unavailable witnesses, without prior opportunity to cross-examine, unless there is an exception 'established at the time of the founding.'" *Id.* (quoting *Crawford*, 541 U.S. at 36). That's it. Johns did not cite *Smith*, *Bullcoming*, *Melendez-Diaz*, or lower court precedents applying them. He did not cite any Georgia precedent or explain why *Smith* required the Georgia Supreme Court to change course—in *any* context, much less in the autopsy context presented by his case.

This Court—as one of "review, not of first view," *Smith*, 602 U.S. at 801 (quotation omitted)—should address the question presented in a case where the defendant actually presented it below. *See, e.g.*, S. Shapiro, et al., *Supreme Court Practice* § 6.37(i)(3) (11th ed. 2019). That ordinary approach is particularly prudent where, thanks to the defendant's failure to develop a claim predicated on a (very) recent decision from this Court, a state court simply applies its preexisting precedent. The Georgia Supreme Court did that here, and party-presentation principles meant the Court did not need to engage with any of Johns's current *Smith* arguments (much less distinctions between *Smith*'s testing context and the autopsy evidence here).

Moreover, Johns's failure to develop his *Smith* claim below creates an additional vehicle problem: He never identified which specific parts of Sullivan's testimony were purportedly improper—a deficiency he barely attempts to rectify before this Court. *See infra* at 19–20. But *Smith* holds that to discern a Confrontation Clause violation, courts must "consider *exactly* which of [the witness's] statements are at issue." 602 U.S. at 801 (emphasis added). The court below could not employ that analysis because Johns did not direct it to even a single line of Sullivan's testimony.

Finally, any Confrontation Clause violation here was harmless. The evidence of Johns's guilt was overwhelming: Johns was the only person with Cason at the time of death; Cason's roommate overhead Cason asking Johns to "not hit [him] no more"; and blood stains in Johns's apartment contained traces of Cason's DNA. Pet.App.5a–6a. The Georgia Supreme Court upheld Johns's conviction based on Georgia precedents involving analogous evidence. Pet. App.6a–7a. As such, the evidence was more than sufficient to uphold the jury's verdict *regardless* of Sullivan's testimony—which, again, was about the cause of Cason's death, not the identity of his killer. In short, as the trial court ruled, any violation of Johns's Confrontation Clause rights "was harmless beyond a reasonable doubt given the other properly admitted evidence." Pet.App.16a. Should the need arise, this Court should clarify *Smith*'s application in a case where the issue is more than academic. *See* Shapiro, *supra* § 4.4(f) (explaining that certiorari is properly denied where the answer to the question presented "could not change the result reached below, because the petitioner would be liable" regardless).

For his part, Johns contends that this case "concerns a recurring issue of national significance"—and thus, presumably, merits review regardless of any case-specific difficulties. Pet.19. But here again, Johns's argument for this Court's intervention assumes the (incorrect) premise that every case involving a second analyst's review of underlying forensic evidence is akin to the parroted laboratory test results in *Smith*. Johns discusses "[f]orensic analysis" and "forensic tests" generally and cites an article about "errors and fraud" in forensic evidence to claim those errors are common. Pet.19–20. But that article is primarily about serology, drug testing, DNA testing, hair comparison, fingerprints, and similar evidence.[1] Perhaps, over time, a question about *Smith*'s application to testimony on *those* subjects will prove cert-worthy. Intuitively, such evidence may often be crucial—even dispositive—to proving a crime or inculpating a defendant. But even if Johns can point to a handful of times autopsies played outsized evidentiary roles, he cannot establish that autopsy-related evidence will be pivotal in most cases. This case confirms as much: There is no serious dispute that Cason died from stab wounds, and Sullivan's testimony did not identify Johns as the killer. So once more, the supposedly critical question Johns presents does not map on to the facts of this case—which do not call out for review.

III. The decision below is correct.

On top of everything else, this Court's review is unwarranted because the Georgia Supreme Court's decision is correct. Sullivan's expert opinion did not "merely replicate[]" but "buil[t] on[] the testing analyst's

1. *See* Nat'l Inst. of Just., *The Impact of False or Misleading Forensic Evidence on Wrongful Convictions* (Nov. 28, 2023), https://tinyurl.com/2vmc5f5e.

conclusions." *Smith*, 602 U.S. at 799. Unlike in *Smith*, Sullivan could, and did, perform an independent evaluation to reach her own conclusion. As such, her testimony constituted a properly independent expert opinion, not parroted hearsay. Beyond that, the draft autopsy report Sullivan reviewed was not testimonial in the first place. Johns's right to confrontation was not violated.

A. Sullivan's independent testimony did not violate the Confrontation Clause.

Smith bars the prosecution from using a "surrogate" expert witness as a "mouthpiece" for the recitation of a non-testifying witness's opinions. 602 U.S. at 800. *Smith* and its predecessors arose in the context of test results—*i.e.*, a non-testifying expert performed a test to determine whether a substance contained drugs, or to ascertain blood-alcohol levels. *See, e.g.*, *id.* at 789–90; *Bullcoming*, 564 U.S. at 653; *Melendez-Diaz*, 557 U.S. at 308. In that context, there is a plausible argument that the "basis of" the testifying analyst's opinion simply cannot be meaningfully independent from the non-testifying analyst's. *Smith*, 602 U.S. at 798. The testifying analyst can "opine that the tested substances were [certain drugs] *only because* he accept[s] the truth of what [the testing analyst] had reported about her work in the lab—that she had performed certain tests according to certain protocols and gotten certain results." *Id.* (emphasis added). Put differently, "[a]ll" of the second analyst's "opinions were" *necessarily* "predicated on the truth of [the first analyst's] factual statements." *Id.* And that was essential to the result in *Smith*: Had the second analyst in fact developed an independent opinion, her testimony would have "buil[t] on," rather than "merely replicate[d] … the testing analyst's conclusions." *Id.* at 799.

As such, *Smith* does not categorically bar the admission of independent expert testimony that considers a non-testifying expert's prior work. Nor would the Confrontation Clause support that categorical rule. As this case demonstrates, there is a world of difference between the parroted test results in *Smith* and expert testimony grounded in an independent review of autopsy evidence. Here, Sullivan conducted a peer review of Aiken's draft autopsy report and the evidence underlying it—including photographs of Cason's body. *See supra* at 6. This typical practice helps ensure that pathologists correctly identify the cause and manner of death.[2] Autopsy reports must document blunt-force and penetrating injuries with enough detail "to permit another forensic pathologist to draw independent conclusions based on the documentation."[3] That is made possible in part through review of autopsy photographs, which experts can independently interpret based on their own personal knowledge, expertise, and judgment.[4]

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2. *See, e.g.*, Comm. on Advancing the Field of Forensic Pathology, Nat'l Academies, Strengthening the U.S. Medicolegal Death Investigation System: Lessons from Deaths in Custody 111–14 (2025), https://tinyurl.com/yx3xdkrt (discussing the prevalence and importance of peer review of autopsies).

3. *See, e.g.*, G. Peterson & S. Clark, Nat'l Ass'n of Med. Examiners, Forensic Autopsy Performance Standards 20 (2020), https://tinyurl.com/yzv8jy9b.

4. Autopsy photographs are not themselves hearsay because they are not "assertion[s]" nor are they "intended … as an assertion." Fed. R. Evid. 801(a); *accord* O.C.G.A. § 24-8-801(a); Fed. R. Evid. 801, cmt. to subdivision (a). And at least some of Cason's autopsy photographs were separately admitted at Johns's trial—another case-specific factor complicating Johns's sanitized version of events. *See* Pet.App.10a.

Far from "merely reading" Aiken's draft report into the trial record, *see Smith*, 602 U.S. at 800, Sullivan peer reviewed it *and* related materials—specifically, "the case information that the investigator had prepared" and "the photographs that had been taken during [Cason's] autopsy"—to form her own independent opinions, Pet. App.12a. Sullivan's review of the autopsy photographs was particularly important to the Georgia Supreme Court. *See* Pet.App.4a, 11a–13a. Sullivan testified that those photographs showed "sharp force injuries in the heart, the aorta, and the pulmonary trunk, any one of which could have been independently fatal"; "a sharp force injury" on the left side of Cason's neck; defensive wounds on Cason's hands; and indicated that Cason "rapid[ly]" died "within minutes" from "stab wounds of the chest." Pet.App.4a. (cleaned up). That is not "surrogate testimony" at all. *See Smith*, 602 U.S. at 786. Sullivan "actually did the … work," "build[ing] on" Aiken's report by independently assessing Johns's injuries. *See id.* at 799–800. Thus, her "independent, expert opinion regarding Cason's cause and manner of death," *see* Pet.App.12a, was consistent with both *Smith* and the Confrontation Clause.

Johns's critiques of Sullivan's testimony ignore those distinctions. He asserts that "Sullivan's testimony was not wholly independent" because Sullivan "parroted statements" from Aiken's draft report. Pet.17. But Johns never identifies a single line of Sullivan's testimony as violating his right to confrontation. *See Smith*, 602 U.S. at 801 (requiring specific analysis). He instead gestures vaguely at Sullivan's testimony about several of Cason's characteristics (his age, race, sex, height, and weight); that Cason's body was received directly from the crime scene; that blood samples, fingernail samples, and tape lifts were

taken from Cason; and (finally) about Cason's wounds. *See* Pet.5. But only the wound testimony is relevant here: There has never been any dispute regarding, *e.g.*, Cason's personal characteristics or his body's chain of custody. Certainly, Johns never mentioned Sullivan's testimony on those issues in his brief below. *See supra* at 14–15.

Instead, what matters is whether Sullivan could testify about Cason's wounds and cause of death. And on that issue, Johns posits only that Sullivan "testified to … characteristics of injuries that she could not have gleaned from a two-dimensional photograph." Pet.18–19. Boiled down, that is just a complaint about the persuasive weight of Sullivan's testimony—and thus, potential fodder for cross-examination on how Sullivan could have concluded that one or more of the 27 stab wounds on Cason's left torso were fatal. *See* Pet.App.4a. Johns would not need to call Aiken to the stand to test the reliability of Sullivan's independent review, including its reliance on the autopsy photographs. And, while Johns hasn't questioned Sullivan's cause-of-death opinion, he was free to cross-examine her on that, too.

Ultimately, nothing supports Johns's proposed categorical rule that a second analyst's review of a non-testifying analyst's work, including the underlying evidence relied on by the first analyst, automatically violates the Confrontation Clause. That is certainly not what *Smith* held. This Court's intervention is therefore unnecessary.

B. Aiken's draft autopsy report was not testimonial.

The Georgia Supreme Court's judgment is sound for an independent reason: Aiken's draft autopsy report was not testimonial, and so could not have triggered the Confrontation Clause. That provision reaches only

testimonial out-of-court statements—*i.e.*, those made for a "primary purpose" which "focus[es] on court" proceedings. *Smith*, 602 U.S. at 802 (quotation omitted). Thus, a statement is testimonial where its "sole purpose [is to] provid[e] evidence against a defendant." *Melendez-Diaz*, 557 U.S. at 323; *see also Bullcoming*, 564 U.S. at 664 ("A document created solely for an evidentiary purpose … made in aid of a police investigation, ranks as testimonial.") (quotation omitted). This test is "objective." *Williams v. Illinois*, 567 U.S. 50, 84 (2012) (plurality op.). Generally, a forensic report is testimonial if it "accus[es] a targeted individual of engaging in criminal conduct." *Id.* at 82.

Aiken's draft autopsy report does not fit the bill: Regardless of how it was ultimately *used*, it was not *prepared* for trial or any other court-related purpose. That is apparent for several reasons.

To start with, Georgia law requires medical examiners and pathologists like Aiken and Sullivan to investigate deaths in a wide range of circumstances. *See* O.C.G.A. § 45-16-24(a). Those include scenarios, such as deaths which are "a result of violence," likely (but not certain) to correlate with future court proceedings. *See id.* But the statute also requires investigation in cases of deaths that might, but just as likely may not, involve criminality—*e.g.*, suicide, drug overdose, the deaths of pregnant or recently pregnant women, the "sudden[]" death of a person "in apparent good health," or death "[i]n any suspicious or unusual manner." *See id.* In the circumstances listed in the statute, the examiner may be notified of the death by "*any* law enforcement officer *or* other person having knowledge of such death." *Id.* (emphases added). Unsurprisingly, not all deaths investigated by pathologists result in a

criminal investigation—and when they do, it's far from certain that the investigation will result in a criminal trial. *See, e.g.*, D. Capra & J. Tartakovsky, *Autopsy Reports and the Confrontation Clause: A Presumption of Admissibility*, 2 Va. J. of Crim. L. 62, 77 (2014) (noting that less than 10% of autopsy reports in New York City appear in a prosecution). Moreover, medical examiners' reports—like Aiken's here—generally opine on the cause of death, not the identity of the killer. *See* G. Tsiatis, Note, *Putting* Melendez-Diaz *on Ice: How Autopsy Reports Can Survive the Supreme Court's Confrontation Clause Jurisprudence*, 85 St. John's L. Rev. 355, 358 (2011) (medical examiners "generally cannot speak to the mens rea, actus reus, or concurrence," but can "offer evidence of causation").

At bottom, medical examiners and pathologists perform autopsies, and prepare associated reports, primarily for public-health purposes: tracking the spread of disease, identifying trends and patterns in deaths across a given geographic area, protecting vulnerable populations from further harm, etc. *See* Capra & Tartakovsky, *supra*, at 77–80. Although assisting a criminal investigation is one role an autopsy report might perform, it is not the "sole purpose," *see Melendez-Diaz*, 557 U.S. at 311, nor even the "primary purpose," *see Smith*, 602 U.S. at 802, behind its preparation. Moreover, as a public-health instrument, an autopsy report is less like a law-enforcement officer's investigative report and more like a business record documenting a regularly conducted (and legally mandated) activity. Indeed, courts have held that autopsy reports amount to business records because they simply memorialize the steps taken by a medical examiner during an autopsy. *See, e.g.*, *United States v.*

De La Cruz, 514 F.3d 121, 133 (1st Cir. 2008); *Sosna v. Binnington*, 321 F.3d 742, 747 (8th Cir. 2003).[5] And as "business record[s]," autopsy reports are "by their nature … not testimonial." *See Crawford*, 541 U.S. at 56.

Johns asserts that Aiken's autopsy report is testimonial because it was made "with the primary purpose of accusing Johns" when he "was already in custody" and "a targeted individual." Pet.16 (quotation omitted). But Johns confuses the report's eventual use by the prosecution for the report's "primary purpose," which is identified using "an objective test." *Williams*, 567 U.S. at 84 (plurality op.). The DNA report in *Williams* identified the defendant as the perpetrator and was used at trial, but this Court concluded that it was not testimonial because it "plainly was not prepared for the primary purpose of accusing a targeted individual." *Id.* And it mattered that laboratory technicians "often have no idea what the consequences of their work" will be, and "generally have no way of knowing whether it will turn out to be incriminating or exonerating—or both." *Id.* at 85.

This is an even easier case than *Williams* because Aiken's draft autopsy report (to say nothing of the photographs or other evidence relied on by Sullivan) did not identify Johns as Cason's killer. To the contrary,

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5. Not every court agrees—an unsurprising result given that business-record analysis often turns on the details of state statutes and regulations. *See United States v. Moore*, 651 F.3d 30, 73 (D.C. Cir. 2011); *compare, e.g.*, O.C.G.A. § 45-16-24(a)–(b) (requiring investigation of deaths without any request from law enforcement), *with* D.C. Code § 5-1405(b)(11) (requiring investigations upon law enforcement request or court order). Of course, a split of authority on this distinct, threshold, and dispositive issue counsels strongly against granting certiorari to consider Johns's theory that *Smith* precludes all testimony based on an expert's review of autopsy reports.

Aiken's report, like other autopsy reports, primarily served public health goals. Johns may have been under suspicion at the time; the autopsy may have even ultimately been used at trial. But that cannot override the objective purposes of Cason's autopsy under Georgia law. *See supra* at 21–22. Remove Johns—or the possibility of *any* criminal investigation—from the equation, and the same autopsy would have been required, conducted, and documented. Those and other objective considerations, not the eventual use of the report by prosecutors, control a court's inquiry into "testimonial" status.

CONCLUSION

For the reasons set out above, this Court should deny the petition.

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APPENDIX

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APPENDIX — BRIEF OF APPELLANT IN THE SUPREME COURT OF THE STATE OF GEORGIA, FILED APRIL 4, 2025

IN THE SUPREME COURT
OF THE STATE OF GEORGIA

CASE No. S25A0875

GEORGE SHARROD JOHNS,

Appellant,

v.

STATE OF GEORGIA,

Appellee.

BRIEF OF APPELLANT

On direct appeal from Fulton County Superior Court Case No. 23SC186170

STATEMENT OF JURISDICTION

This Court has appellate jurisdiction of this case because it is an appeal from a final judgment denying motion for new trial. O.C.G.A. § 5-6-34 (a) (1). This Court has jurisdiction over this case because it is a murder case in which a sentence of death could have been imposed. *See*, Art. VI, Sec. VI, Paragraph 3 of the Georgia Constitution of 1983.

Appendix

STATEMENT OF THE CASE

The Defendant, George Sharrod Johns, was indicted for Count 1: Murder; Count 2: Felony Murder; Count 3: Aggravated Assault. (R. 7-10).

Johns was tried before a jury on December 11, 2023. After a three-day trial, on December 13, 2023, Johns was convicted of all counts. (R. 151). Johns was sentenced to life with the possibility of parole. (R. 152-153).

On December 15, 2023, Johns filed a timely Motion for New Trial (R. 164- 165) and filed an Amended Motion for New Trial and a Brief in Support of Amended Motion For New Trial on September 2, 2024 (R.176-189). His Motion was denied September 24, 2024. (R. 219-222). Johns filed a timely Notice of Appeal and Amended Notice of Appeal to the Supreme Court of Georgia on September 25, 2024. (R. 1-6). On March 24, 2025, his case was docketed before this Court.

STATEMENT OF FACTS RELEVENT TO ERRORS

On November 10th, 2022, police responded to apartment building 25 located at 1940 Fisher Road, Southeast, Atlanta after receiving a call that a person was down. When they arrived, they found the victim, James Cason, Jr., a 63-year-old man dead in his Bedroom. (4T. 294-295). Cason had been stabbed numerous times to his chest, neck, arm, and hands. At the time of the incident, Cason was sharing the two-bedroom apartment with his roommate Gary Mack. The two men lived together in connection with a program designed to assist individuals to achieve housing independence. (4T. 423-426). Defendant George Johns was also living in the same apartment

complex albeit a different building. Mack testified that Cason and Johns came to know each other while living in the apartment complex and would hang out with each other daily in Cason and Mack's apartment unit. (4T. 351-356).

On direct examination, Mack testified that on the night of the incident, when he returned home, Cason was on the sofa watching TV. Mack went to his bedroom, and soon after he could see Cason go to his bedroom since Mack's bedroom was the first bedroom in the hallway where the two men's bedrooms were located. He testified that as he was sitting on the bed watching TV, he heard footsteps and then saw Johns passing his doorway as he headed into Cason's bedroom. Mack said that he and Johns may have spoken to one another, and that he kept watching TV after Johns passed his doorway. (4T. 356-362). Mack testified that he heard Cason say, "John, don't hit me again." Upon hearing those words, Mack began to get out of bed. Mack then saw Johns make his way past the bedroom door frame, and down the hallway towards the exit.

Mack said he heard John leave the apartment as he continued to leave his bedroom, to go look around. When he got to Cason's bedroom, he saw Cason dead in his room. Mack stated that he immediately locked the door and while locking it, Johns was trying to get back into the apartment. He looked out of the window and saw Johns turning the knob trying to come back in before he eventually left. (4T. 363-369). Mack then called 911, at 6:04 p.m. and the call lasted 7 minutes. The dispatcher transferred Mack to somebody from the Grady Paramedic Team. The paramedic tried to get Mack to check on the

condition of Cason but, Mack said he was too scared to go near Cason. He told the dispatcher that the suspect was tall, Slim, and light skin. When the police arrived, Mack told them that the suspect that also lived in the apartment complex was named George. When the police arrived, Mack told them that the suspect was who he knew to be as George. (4T. 369-373).

However, on cross examination, Mack testified that he was unaware of any motive that Johns would have to kill Cason. There was no arguing beforehand, no commotion, and the only thing he heard Cason say was "John, don't hit me again." He didn't hear any arguing beforehand. (4T. 380-381). He also said that he never actually saw Johns come into the apartment. (4T. 376-377). On the 911 call, Mack told the operator that his roommate was in his room talking to some guy, instead of referring to the suspect as George. In fact, Mack never mentioned the suspect by name until later when he was talking to the investigators and after he had already spoken to the apartment complex security guard. He also told the 911 operator that he couldn't see the suspect's clothing, yet he told Investigator Berry when asked to identify Johns at the show-up in front of Johns' apartment, that Johns was wearing the same clothing that he was wearing in the apartment. Mack also testified that as he was locking the door, Johns was trying to come back into the apartment and once Johns left, he called 911. However, the transcript of the 911 call revealed that he told the operator that Johns was trying to reenter the apartment as he was talking to the operator. (4T. 377-380).

Officer Chanos testified that about an hour after the incident, when the police were speaking to Mack and some

of the residents, they found out what unit Johns lived in. Chanos and Captain Knapp went up to apartment 68-C which was located up the hill from Cason's building. At 6:59 p.m., approximately 55 minutes after the 911 call, Chanos detained Johns. During the search of John's apartment, the police did not find the weapon that was used to stab Cason. (4T. 298-303). Chanos admitted that he only did a brief search of the area for the weapon near the crime scene because there were too many leaves. He testified that he never went back out to search for the weapon and that he did not have any knowledge of anyone else going back out to search for a weapon. (4T. 304). Chanos also admitted that he and Captain Knapp gained entry to Johns' apartment by lying to Johns telling him that they were there in reference to a fight with a female. Upon entering the apartment Chanos and Knapp searched the apartment and discovered a Dennis Collins, Johns' roommate, lying down in his room. (4T. 304-306).

Brandi Parker, the crime scene technician who processed both the original crime scene and John's apartment, collected a sample of the blood that was found at both scenes and submitted the samples to the Georgia Bureau of Investigations for further Analysis. The samples were taken from what appeared to be blood on a doorknob of the victim's apartment, from a towel and from a door in Johns' apartment (4T. 312-325). She further testified that although there was what appeared to be a blood stain on the exterior door of Cason's apartment, she failed to take a sample and have it tested. Nor did Parker take samples of red stains that were found on the rug and on the wall in Cason's bedroom. (4T. 331-333). Parker admits that no bloody stained clothing or weapon

was found in Johns' apartment. (4T. 333). Melissa West, a serologist testified that the major DNA profile from the towel and door in Johns' apartment belonged to Cason. (4T. 436-443). West stated that although she detected the presence of blood, there is no way to know when the blood was put there, how it got there, or who could have put the blood on the items. (4T. 443-444).

Kaitlyn Vaughn-Main, a forensic biologist at the GBI, testified that the blood found in John's apartment was a match to the profile DNA of Cason. (4T. 456-458). She also testified that the towel contained at least two DNA profiles, but she was only able to make a determination and comparison on the major profile that belonged to Cason. The minor profile that was present on the towel did not contain enough data to make any determinations. She said that the sample contained trueallele and that if requested, she could have tested for additional information to possibly obtain more information on the minor contributor to the profile. She also testified that there was no way to identify who the DNA could belong to if she was not provided the proper reference known sample, and that there was no way for her to determine when the DNA was left on the towel. (4T. 461-464).

Additional facts will be provided as appropriate.

ENUMERATION OF ERRORS

I. The evidence is insufficient to support the felony murder conviction.

II. The Trial Court abused its discretion when it allowed the State to introduce photos of the victim's body.

III. The Trial Court abused its discretion when it allowed State's witness Dr. Karen Sullivan to provide substitute testimony on the autopsy of the victim.

ARGUMENT AND CITATION OF AUTHORITIES

I. The evidence is insufficient to support Defendant's convictions.

Defendant should be acquitted and discharged due to the fact that the State failed to prove Defendant guilty beyond a reasonable doubt at Defendant's Jury Trial. (5T. 525-539). *Austin* v. *State,* 300 Ga 889, 799 S.E.2d 222 (2017); *(Jones* v. *State,* 299 Ga. 377, 788 S.E.2d 477 (2016); *Jones* v. *State,* 292 Ga. 656, 740 S.E.2d 590 (2013); *Dean* v. *State,* 273 Ga. 806, 546 S.E.2d 499 (2001); *Barela* v. *State,* 271 Ga. 169, 517 S.E.2d 321 (1999); *Thomas* v. *State,* 168 Ga. Ap. 53, 308 S.E.2d 59 (1983); *Jackson* v. *Virginia,* 443 U.S. 307 (1979). There was insufficient evidence presented by the State to prove that Defendant was the assailant in Cason's Murder. Due to the lack of investigation concerning the death of Cason, the State failed to provide nothing more than the testimony of an eyewitness who only identified the Defendant as the suspect after speaking to others. Although Mack later identified Johns as the suspect, he never once identified Johns as the suspect while he was on the phone with the 911 operator. He gave a full description of the suspect but never once indicated that the man that he saw in the apartment was Johns. (4T. 377-380).

The lead investigator, Detective Berry who failed to testify during the trial did not pursue any additional suspects, including the roommate of the victim, Gary

Mack. The investigation failed to produce any bloody clothing belonging to the Defendant; to locate any of the Defendant's DNA in Cason's apartment or on Cason's body; to develop a motive as to why the Defendant would murder his friend; to collect key forensic evidence from Cason's apartment; to conduct further testing of the DNA evidence that was collected from the scene since there were multiple unknown profiles on both the towel and the bathroom door swabs, specifically, the state could have gotten a search warrant for the Defendant's DNA to do a comparison. The Defendant is accused of stabbing Cason numerous times, however Defendant did not have a single cut or abrasion on his hand or body. A search was conducted approximately an hour later of the Defendant's apartment, yet there were no bloody clothes, weapon, or any traces of a brutal murder other that small amounts of Cason's DNA which could have been placed there by any other means including Cason himself since it's not disputed that the Defendant and Cason were friends. (5T. 525-539). The inconsistencies in Mack's testimony, lack of murder weapon, absence of Defendant's DNA, no motive, made it impossible for the State to prove its case beyond a reasonable doubt. As such, the State failed to prove all the elements of its case and Defendant should be granted a new trial.

Additionally, Defendant is entitled to a new trial due to the insufficiency of the evidence since the Guilty Verdict at Defendant's Trial was not supported by and was decidedly against the weight of the evidence presented at Defendant's Trial and the Guilty Verdict at Defendant's Trial is contrary to the law and evidence presented at said Trial. (5T. 525-539). Allen v. State, 296 Ga. 738, 770

S.E.2d 625 (2015); White v. State, 293 Ga 523, 753 S.E.2d 115 (2013); Manuel v. State, 289 Ga. 383, 289 Ga 383 (2011); Mills v. State, 188 Ga. 616, 4 S.E.2d 453 (1939). As stated above, the State failed to prove all the elements of its case and Defendant should be granted a new trial.

This Court views the evidence "in the light most favorable to the prosecution, [and determines whether] any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (Citation and footnotes omitted). Jackson v. State, 295 Ga. App. 427, 428-429 (1) (2009).

II. The Trial Court abused its discretion when it allowed the State to introduce photos of the victim's body.

The Court allowed the cumulative photo evidence of the victim's body after the State had already introduced similar photos through the crime scene technician, Brandi Parker. (4T. 309-331). Under § 24-4-403, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. The additional photos lacked any probative value that could justify the unfair prejudice that the introduction of the evidence caused to the Defendant by inflaming the passions of the jurors against him.

III. The Trial Court abused its discretion when it allowed State's witness Dr. Karen Sullivan to provide substitute testimony on the autopsy of the victim.

The Trial Court abused its discretion when it allowed State's witness Dr. Karen Sullivan to provide substitute

testimony on the autopsy of the victim over Defendant's Trial Counsel's objection. Dr. Sullivan did not perform the autopsy of the victim, thus the allowed testimony to such evidence was a violation of Defendant's right to confrontation. (4T. 341-342; 387-388). The Confrontation Clause bars the admission of testimonial statements from unavailable witnesses, without prior opportunity to cross-examine, unless there is an exception "established at the time of the founding." 541 U.S. at 36.

STANDARD OF REVIEW

This Court reviews a trial court's evidentiary rulings for an abuse of discretion. Williams v. State, 328 Ga. App. 876, 877 (1) (2014).

CONCLUSION

Sonya Fuller respectfully requests that this Court REVERSE her convictions.

Respectfully submitted, this 2nd day of April, 2025.

"This submission does not exceed the word-count limit imposed by Rule 20."

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