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Oct 27 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County

Honorable Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES B. CURRY,

APPELLANT

APPELLATE CASE NO. 2024-002075

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF CHESTER
07-GS-12-529 to 532

STATE OF SOUTH CAROLINA
VS.
JAMES BERNARD CURRY

CHESTER, SOUTH CAROLINA
FEBRUARY 12-14, 2008
BEFORE THE HONORABLE BROOKS P. GOLDSMITH

APPEARANCES
FOR THE STATE: DOUGLAS BARFIELD
FOR THE DEFENDANT: PRO SE AND YALE ZAMORE, STAND-BY
REPORTED BY: MICHAEL C. WATKINS
OFFICIAL COURT REPORTER

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STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

COURT OF COMMON PLEAS
07-GS-12-529 - 532

STATE OF SOUTH CAROLINA
-vs-
JAMES B. CURRY

:
:
: TRANSCRIPT OF RECORD
:
:

MONDAY, FEBRUARY 9, 2009
CHESTER, SOUTH CAROLINA

B E F O R E:

HONORABLE BROOKS P. GOLDSMITH, JUDGE.

A P P E A R A N C E S:

DOUGLAS BARFIELD, SOLICITOR
ATTORNEY FOR THE STATE

NATHAN SHELDON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DIANNE A. RUTLEDGE
CIRCUIT COURT REPORTER

1		<u>I N D E X</u>		
2	WITNESS	DIRECT	CROSS	REDIRECT
3	ANTHONY THOMASHOT	RECROSS		
4	MR. SHELDON	35		
5	LAMORIS DYE .			
6	MR. SHELDON	38	46/51/54	
7	MR. BARFIELD	41		48/54
8	THE COURT	52		
9	LATONYA CURRY			
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23	NO.		ID	IN
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1 AUDIO TAPE, THEN I CAN SHOW THAT AS AN EXHIBIT SINCE IT'S
2 NOT ON THE -- SINCE IT'S NOT ON THE TRANSCRIPT. I CAN SHOW
3 THE AUDIO TAPE. AND THEN, AGAIN, LIKE I SAID, IF
4 NECESSARY, I CAN HAVE 12 JURORS AND THE 2 ALTERNATES
5 SUBPOENAED. I THOUGHT, LIKE I SAID, THEY'RE SUPPOSED TO BE
6 THE ONE THAT SUPPOSED TO BE LISTENING THE CLOSEST AT THE
7 TRIAL.

8 THE COURT: ALL RIGHT. MR. SHELDON, MR. CURRY, I'M
9 READY TO RULE, AND THAT'S THE WAY I RULE ON THE AUDIO TAPE.

10 ON THE ISSUE OF PERJURY, I FIND THERE'S NO EVIDENCE
11 FOR THIS COURT TO SEEK PERJURY CHARGES. AND, QUITE
12 FRANKLY, THE COURT'S NOT CERTAIN THAT THIS COURT HAS
13 AUTHORITY ITSELF TO PURSUE PERJURY CHARGES.

14 ON THE ISSUE OF THE NEW TRIAL, THE COURT FINDS THAT
15 THE EVIDENCE THAT THE DEFENDANT ASSERTS IS NEW COULD HAVE
16 IN FACT BEEN DISCOVERED BY DUE DILIGENCE. ALL OF THE
17 EVIDENCE THAT THE DEFENDANT IS REFERRING TO IS EVIDENCE
18 THAT WAS IN THE HANDS SO TO SPEAK OF ACTUALLY HIS CLOSEST
19 RELATIVES AND, I GUESS, A NEXT DOOR NEIGHBOR, AGAIN, ONE OF
20 HIS CLOSEST RELATIVES.

21 THE DEFENDANT WAS ADVISED WHEN HE WAS ALLOWED TO
22 REPRESENT HIMSELF, WAS APPRIZED OF THE DANGER OF SELF
23 REPRESENTATION.

24 BUT I DISAGREE WITH DEFENSE COUNSEL ABOUT WHETHER THIS
25 WOULD BE IMPEACHING OR CUMULATIVE. I THINK IT WOULD BE

1 CUMULATIVE. I THINK IT COULD HAVE BEEN DISCOVERED. THERE
2 IS ACTUALLY SOME EVIDENCE THAT IT WAS DISCOVERED BEFORE
3 TRIAL, BUT ALSO FIND THAT IT'S HIGHLY UNLIKELY THAT THE
4 RESULTS WOULD CHANGE EVEN IF THERE WAS A NEW TRIAL AND EVEN
5 IF THIS EVIDENCE HAD BEEN BROUGHT BEFORE THE JURY.

6 THAT'S THE RULING OF THE COURT ON ALL THE ISSUES.

7 COURT WILL BE IN RECESS FOR 10 MINUTES.

8 --- END OF TRANSCRIPT OF RECORD ---

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STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2008 CP-12-00523
Stephen Guitoye, et al

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other Failure To Comply with SCRPC 4+5

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Charleston, South Carolina, this 20 day of May, 2009.

[Signature]
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

James B. Curry #18673
Lee C. Kerlin
980 W. Asbury Highway
Disstonville, S.C. 29010

Stephen Guitoye

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

STATE OF ~~SOUTH~~ CAROLINA
COUNTY OF Johnston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2008 CP 12-0649

James B. Curry

Michael C. Watkins

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE.

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other Failure To Comply with SCRPC 405

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Chesler, South Carolina, this 20 day of May, 2008.

[Signature]
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

James B. Curry #18673
Lee C.I. Kelly 1161
990 W. Sashy Highway
Bishopville, S.C. 29010

Michael C. Watkins

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER.)

IN THE COURT OF GENERAL SESSIONS
INDICTMENTS 2007-GS-12-529, 530, 531, 532

STATE OF SOUTH CAROLINA,)
)
VS.)
)
James B. Curry,)
)
)
)
Defendant.)

DEFENDANT'S AMENDED MOTION FOR A NEW TRIAL
BASED ON AFTER DISCOVERED EVIDENCE PURSUANT TO
RULE 29(b), SCRCrimP

FILED
2009 JUN 30 P 4:52
CLERK OF COURT
CHESTER COUNTY S.C.

PROCEDURAL HISTORY

Defendant James B. Curry was convicted of Burglary 1st Degree, Armed Robbery, Kidnapping, and Assault and Battery of a High and Aggravated Nature on February 14, 2008. In July of 2008, the defendant filed, *pro se*, certain post-trial motions, including a motion for a new trial based on after discovered evidence. In October of 2008, counsel was appointed to represent Mr. Curry. After a hearing in front of the Honorable Brooks P. Goldsmith in February of 2009, the defendant's motion was denied.

In April of 2009, the defendant filed, *pro se*, another motion for a new trial based on after discovered evidence. On May 14, 2009, the defendant appeared in front of the Honorable Howard P. King. By order dated that day and filed on May 15, 2009, Judge King appointed the Sixth Circuit Public Defender's office to represent Mr. Curry until and through a hearing on defendant's motion. The order directed counsel to file an amended motion by July 1, 2009 and set out further scheduling matters culminating in a hearing during the term of General Sessions Court scheduled for Chester County the week of October 5, 2009.

MOTION

Defendant James B. Curry moves for a new trial based on after discovered evidence pursuant to Rule 29(b), SCRCrimP on the following grounds:

1. The principal investigating officer in this case was Mike Revels. Revels served as Chief of Police for the town of Great Falls, the investigating agency for the case against Mr. Curry. Revels was arrested and charged with misconduct in office on May 27, 2009. According to media reports, the alleged illegal acts by Revels occurred in March of 2007. Revels is accused of theft, an act which reflects on his credibility as a witness. The defendant is informed and believes that the Solicitor was aware of the allegations against Mr. Revels at the time of Mr. Curry's trial in


February 2008 and did not disclose this information to the defendant. If the defendant had known about these allegations, he could have cross-examined Mr. Revels about these allegations and called into question Revels' veracity.

2. The defendant believes that attacks on elderly people have continued to occur in Great Falls since his conviction and that whoever is committing these attacks is the same person who committed the attack for which the defendant has been wrongfully convicted.
3. The defendant believes that the Solicitor and the Solicitor's Investigator, Mr. Stewart presented false and misleading statements to the court concerning the timing of the DNA analysis. Specifically, they indicated that they (or someone from their office) had spoken to the DNA analyst prior to her issuing written results. The DNA analyst testified that she had not spoken to anyone from the Solicitor's Office but that it was possible that someone spoke to one of her supervisors. Since his trial the Defendant has discovered the names of the DNA analyst's supervisors and believes that they would testify that they had no contact with anyone from the Solicitor's Office. If the defendant had discovered this evidence prior to his trial he would have called these witnesses and their testimony would have undermined the credibility of the prosecution on the critical issue of the validity of the DNA analysis.

SUMMARY

The defendant moves for a new trial based on after-discovered evidence as described above. Pursuant to the Order of Judge King, the Defendant will file a memorandum of law concerning these matters prior to August 1, 2009.

Respectfully submitted,


Michael H. Lifsey
Sixth Circuit Public Defender
PO Box 1809
Lancaster, SC 29721
(803) 285-5585

Date: 6/30/09

True and correct copy of original paper on file in this office.

Luc A. Carpenter
Clerk of Court

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF GENERAL SESSIONS
FOR THE SIXTH JUDICIAL CIRCUIT

Chester County, SC
Date 11/3/2009

State of South Carolina,

vs.

James B. Curry,
Defendant

Case Nos.: 2007-GS-12-529
2007-GS-12-530,
2007-GS-12-531
2007-GS-12-532

ORDER

2009 OCT 16 A 8:41
FILED
CLERK OF COURT
CHESTER COUNTY, S.C.

This matter came before the court upon the motion of the Defendant, James B. Curry for a new trial based on after-discovered evidence pursuant to Rule 29(b), SCRCrimP.

FACTS

The Defendant was tried for and convicted of Burglary First Degree, Armed Robber, Kidnapping, and Assault and Battery of a High and Aggravated Nature on February 14, 2008. The Honorable Brooks P. Goldsmith presided and sentenced Curry to concurrent sentences of 25 years, 25 years, 25 years, and 10 years. Curry represented himself at trial. He filed a Notice of Appeal, but subsequently withdrew his appeal. On July 29, 2008, Defendant filed several *pro se* motions including "Defendants Motion New-Trial based on After-Discovered." The motion did not state the grounds with particularity. On October 24, 2008, Curry appeared before the court for a hearing on his motions. On that date, Nathan J. Sheldon, Esq., was appointed to represent Curry, and the hearing was continued. Thereafter, the motions were heard by Judge Goldsmith on February 9, 2009. Both Curry and the State presented testimony. Judge Goldsmith denied Curry's motions, including his Motion for a New Trial Based Upon After Discovered Evidence in an oral order from the bench. A Notice of Appeal on Defendant's behalf was filed, and Curry subsequently withdrew that appeal. On April 7, 2009, Curry, appearing *pro se*, filed

1 86 g/ok

“Defendant’s Motion for New Trial based on Newly-Discovered evidence.” On May 14, 2009, this Court continued the hearing on his motion and appointed the public defender’s office to represent him. This court also entered a scheduling order in the matter on that date. Thereafter, Michael H. Lifsey, Sixth Circuit Public Defender, filed Defendant’s Amended Motion for New Trial Based on After Discovered Evidence pursuant to Rule 29(b), SCRCrimP. This motion was heard by this Court on October 5, 2009.

ISSUES

- I. Was the alleged misconduct in office of Great Falls Police Chief John M. Revels after-discovered evidence warranting a new trial?
- II. Does evidence of similar offenses that occurred subsequent to Defendant’s trial warrant a new trial?
- III. Did the prosecutors present false and misleading statements regarding the DNA evidence against Defendant at trial?

ANALYSIS

To prevail on a motion for a new trial based on after-discovered evidence, the Defendant must show the 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. Mercer*, 381 S.C. 149 (2009).

I. Revels’ Misconduct

Curry contends that had the State disclosed to him prior to trial that Great Falls Police Chief John M. Revels, the primary investigating officer in this case, was being investigated for stealing money, he would have been allowed to cross-examine Revels and use this evidence to impeach his character for truthfulness or untruthfulness pursuant to Rule 608, SCRE. This argument is factually defective because it is based on an error in the Revels arrest warrant. The

evidence before this court clearly shows that Curry's trial concluded on February 14, 2008 and the Revels matter arose thereafter. Although Revels' arrest warrant alleges the misconduct occurred on March 31, 2007, it should have correctly alleged that it occurred on March 31, 2008, after the conclusion of Defendant's trial. Special Agent Michael C. Greene investigated the Revels matter and testified that the complainant against Revels wrote a letter dated April 20, 2008 (emphasis added) to SLED alleging Revels stole her money between March 31, 2008 and April 1, 2008. This letter was after the Defendant's trial which concluded February 14, 2008. Agent Greene simply indicated the incorrect year of the offense on the arrest warrant.

The court therefore finds that the Revel evidence did not exist at the time of the Curry's trial and could not have been used by him to impeach Revels during Revels' testimony. Therefore, it does not meet the test of after-discovered evidence. Furthermore, Revels has not been convicted of a crime and whether such testimony would be admissible under Rule 608, SCRE, would be within the discretion of the trial judge. The Defendant seeks to offer this evidence for impeachment purposes which is not proper under the *Mercer* test, 381 S.C. 149, for after-discovered evidence. To allow defendants to seek new trials to attack the credibility of witnesses who testified against them and who after the trial themselves ran afoul of the law would undermine the finality of jury verdicts. The evidence in this instance simply did not exist until after the trial.

II. Similar Crimes

Curry was convicted of invading the home of an elderly man and assaulting and robbing him. He contends that after his trial, other attacks occurred in the town of Great Falls where this offense occurred and that the person who committed the subsequent attacks is the same person who committed the offense for which he was convicted. In essence, Curry contends he should be

granted a new trial to present evidence of third-party guilt for his crimes. In *State v. Tindall*, 665 S.E.2d 188 (Ct. App. 2008), the South Carolina Court of Appeals set forth the rule for admitting evidence of third party guilt:

“Evidence offered by an accused as to the commission of the crime by another person must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have no other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible. Before such testimony can be received, there must be such proof of connection with it, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party.”

First, Curry contends that there were other similar crimes in the same geographical area subsequent to his trial. Even if true, this merely casts suspicion upon another and relies upon conjecture. Secondly, Curry tries to offer proof of similar crimes committed by one Tramell Richardson. He offered into evidence a sentencing sheet showing that Richardson was convicted Oct. 21, 2008 after Curry’s conviction on February 14, 2008. He also introduced into evidence copies of indictments showing Richardson was indicted on March 24, 2008 for burglary, armed robbery, and assault.

This evidence is not inconsistent with Curry’s own guilt and does not raise a reasonable inference or presumption as to Curry’s own innocence. Furthermore, Curry’s proffered testimony of Richardson’s alleged guilt is not such a train of facts or circumstances to clearly point out Richardson as the guilty party. This evidence, even if admissible, is not material and would not change the result in a new trial.

The Court finds therefore that the proffered evidence on similar crimes does not meet the *Tindall* test, 665 S.E.2d 188, as set out above.

III. Prosecutor Misconduct

Curry contends that Solicitor Barfield and his investigator lied to the trial court concerning the timing and sequence of events leading up to the matching of Curry’s DNA to

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JHK

evidence collected from a drinking glass found at the crime scene, from which the victim testified Defendant had used. Curry's contention at trial was that the police planted his DNA on the glass at the crime scene.

The trial judge at Defendant's trial was the Honorable Brooks Goldsmith. Prior to trial, Judge Goldsmith also heard the *Schmerber v. California* motion, 384 U.S. 757, 86 S.Ct. 1826 (1966), whereby he ordered Curry to give a swab for comparison. Judge Goldsmith also heard Curry's first motion for a new trial based on after-discovered evidence. Curry's allegation that his DNA was planted at the crime scene was fully developed at the motion hearing for a new trial. Judge Goldsmith denied the motion. Curry now contends that he should be granted a new trial and allowed to call Ira Jeffcoat and Steve Lambert of SLED to contradict the testimony of the SLED chemist who testified at trial.

Both Agent Jeffcoat and Agent Lambert testified at the October 2009 hearing and both testified that they had no contact with anyone from the Solicitor's office concerning the SLED chemist's testing results prior to the issuance of her written report. Initially, this evidence existed at the time of the first hearing on Curry's motion for a new trial before Judge Goldsmith. By the exercise of due diligence, it could have been discovered prior to that hearing. Although the evidence was not known to Curry prior to trial, it became known to him at trial when the chemist testified. Furthermore this evidence is not material and would not change the result in a new trial. Additionally, it is offered solely for impeachment purposes. Thus the *Mercer* test for after-discovered evidence is not met.

CONCLUSION

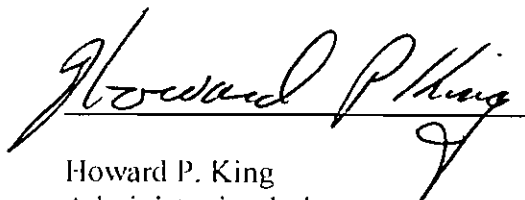
None of Curry's three grounds for a new trial meet the test for after-discovered evidence. First, the evidence of Revels' alleged misconduct did not exist at the time of Curry's trial.

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JPK

Second, the evidence of third-party guilt merely casts suspicion, was conjectural, and was not inconsistent with Curry's own guilt. Third, the evidence regarding the DNA report was not material and even if admitted would be for impeachment purposes only.

Because none of Curry's contentions meet the five prong test of *State v. Mercer*, his motion for a new trial is denied.

AND IT IS SO ORDERED!

A handwritten signature in cursive script, reading "Howard P. King". The signature is written in black ink and is positioned above a horizontal line.

Howard P. King
Administrative Judge
Sixth Judicial Circuit

October 13, 2009
Sumter, SC

STATE OF SOUTH CAROLINA
COUNTY OF Chester
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-12-044

James B. Curry

Douglas Seefeld

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____

ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other Failure To Comply with SCRCR 4.5

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Lancaster, South Carolina, this 28 day of October, 2009

[Signature]
PRESIDING JUDGE

2009 OCT 29 A 11:11

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Douglas Seefeld

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

James B. Curry

CASE NO. 2009 -CP- 12- 225
Mike Revel
Trinity Police Chief et al
Tommy Street Fall

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other Failure To Comply with SCRPC 4 r 5

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Lanster, South Carolina, this 28 day of October, 2009
[Signature]
PRESIDING JUDGE

FILED
OCT 29 11:06
COURT

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Mike Revel

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS
FOR THE SIXTH JUDICIAL CIRCUIT

James B. Curry,
Plaintiff
vs.

Former Chief Mike Revels
& Town of Great Falls,
Defendant

Case No.: 09-CP-12-00836

ORDER

FILED
2009 DEC 18 P 3:20
CLERK OF COURT
CHESTER COUNTY, S.C.

This matter is before the court on motion and affidavit of the *pro se* Defendant, James B. Curry (Curry) to proceed *in forma pauperis*. For the reasons hereinafter set forth, the motion is denied and the case is dismissed for failure to state a cause of action pursuant to Rule 8, SCRPC.

This Court has personal familiarity with Curry. Heretofore, he was convicted in the Court of General Sessions for Chester County for the offenses of Burglary First Degree, Armed Robbery, Kidnapping, and Assault and Battery of a High and Aggravated Nature and sentenced to concurrent sentences of 25 years, 25 years, 25 years, and 10 years in prison by the Honorable Brooks Goldsmith. He initially filed an appeal from that conviction, but the appeal was dismissed by the Court of Appeals (see Exhibit "A"). Thereafter, he served a motion for New Trial based on after-discovered evidence. This motion was heard by Judge Goldsmith and denied on the record but no formal order was filed.

Subsequently another motion for New Trial based on after-discovered evidence was filed by Curry *pro se* and came to my attention as Chief Judge for Administrative Purposes for General Sessions for the Sixth Circuit. Because this Court was unable to understand Curry's contentions, and in an effort to be fair to him and give him a chance to be heard even though he

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JHR

had previously filed and been heard on a similar motion, this Court appointed Mike Lifsey, Esq., Public Defender for the Sixth Circuit to represent Curry on the motion and to re-draft, file, and serve the re-drafted motion.

This second motion for a New Trial based on after-discovered evidence came before this Court on October 5, 2009. The Court filed its Order denying the motion on October 16, 2009, and its Order denying Curry's motion for reconsideration on November 30, 2009. There has been no appeal from these orders.

Since his conviction on February 14, 2008, Curry has filed four lawsuits (not including the present action) as follows: (1) *Curry v. Guilfoyle and Chester News & Reporter*, 08-CP-12-0523 (newspaper and its editor and reporter); (2) *Curry v. Watkins*, 08-CP-12-0649 (Court Reporter); (3) *Curry v. Barfield*, 09-CP-12-044 (Circuit Solicitor); and (4) *Curry v. Revels & Town of Great Falls*, 09-CP-12-0225 (Police Chief and Town). This last case is against the same parties as the present case. All four of these cases were dismissed for failure to comply with the rules. (See Exhibits "B", "C", "D", & "E"). In addition, his demands on the Clerk's office are overbearing, and his file in the Clerk's office containing letters, requests, demands, and other matters is voluminous. It is impossible to summarize the many spurious documents and demands sent to the Clerk. At my request, the Clerk made a list of some of the matters she has had to deal with. (See Exhibit "F"). In addition, copies of a few other documents are attached as a group to demonstrate the numerous requests and demands by Curry (Exhibit "G").

The present case is the second Curry has filed against former police chief Mike Revels and the Town of Great Falls.

This Court is well aware of the necessity of the courts being open and accessible to all citizens so that there will be a forum where their legitimate grievances can be resolved. This

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1/09

Court does not intend in any way to limit that access to justice. However, when frivolous, non-legitimate lawsuits are filed, or excessive and unreasonable demands are made on administrative personnel, access to justice by those citizens having legitimate matters is hampered and compromised. The Court simply cannot tolerate numerous unreasonable and frivolous demands being made on the court and its personnel, thereby limiting recourses that are necessary for the proper business of the court.

The General Assembly recognized this problem and enacted S.C. Code Ann. §24-27-200. In addition, the Supreme Court held in *Furtick v. South Carolina Department of Corrections*, 374 S.C. 334, 649 S.E.2d 35 (S.C. 2007) that “[i]f a court finds a prisoner has: (1) submitted a malicious or frivolous claim, or one that is intended solely to harass the party filed against; (2) testified falsely or otherwise presented false evidence or information to the court; (3) unreasonably expanded or delayed a proceeding; or (4) abused the discovery process; then the “prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined” by the Department of Corrections.

Therefore this Court does hereby serve notice on this Defendant that future frivolous, repetitious, or unfounded lawsuits, or continued unreasonable demands on the Clerk of Court, could result in findings by this court that Curry be required to forfeit all or part of his earned work, education, or good conduct credits as provided by *Furtick*.

Furthermore, the Court may, if the Defendant intentionally violates the terms of this order, hold him in contempt of court pursuant to S.C. Code Ann. § 24-27-300. The punishment for such contempt is up to one year to be served consecutively to the previously imposed imprisonment.

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HOK

ACCORDINGLY, the motion to proceed *in forma pauperis* is denied and the case dismissed pursuant to Rule 8, SCRCP.

AND IT IS SO ORDERED!

A handwritten signature in black ink that reads "Howard P. King". The signature is written in a cursive style and is positioned above a horizontal line.

Howard P. King
Administrative Judge
Sixth Judicial Circuit

Sumter, SC
December 17, 2009

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State of South Carolina
County of Chester

State of South Carolina
Plaintiffs
Vs.

James B. Curry
defendant

In the Court of General Sessions
Indictments #2007-GS-12-529-530-531-532

Defendants pro-se Motion
For New-Trial based on after
discovered evidence.

"To: Be Effective After the"
Sending of Order of Dismissal
and Remittitur from the
South Carolina Court of Appeals
which was applied for on Dec 18, 2007
with Certified Return of Receipt by
defendant.

FILED
DEC 21 2007
CLERK OF COURT
CHESTER COUNTY, S.C.

TO: The Administrative Judge within the Six Judicial Circuit Court

Will you please be advised that the above named defendant by
and through his self representation move before the Honorable
Court, requests that a hearing Under Blasing-game be held
pursuant to the requirements of Rule 29b of the Rules of Criminal-
Procedure. This Motion is Based on the Following Grounds.

#1. The defendant is informed and believes that Juror #38 Patricia Coiter
was tainted and has committed a Voir Dire violation making defendants
Trial Fundamentally Unfair which 100% warrants a new-Trial Thus
defendant request to have Counsel appointed to expound upon
this argument Const. Art. 1 § 18 and Art 5 § 32 state vs. Rorer guarantee
Jury to be unbiased fair and impartial.

CC:

- Send copy to Judge King
- Send copy to Solicitor Barfield
- Send copy to James Curry

Respectfully Submitted

James B. Curry
James B. Curry

12-21-09

State of South Carolina
County of Chester

State

Vs.

James B. Curry

In the Court of General Sessions.
#2007-65-12-529-530-531-532

Affidavit in Support
of Motion

FILED
2009 DEC 29 P 12:37A
CLERK OF COURT
CHESTER COUNTY, SC

Personally Appeared Before Me James, B. Curry who being duly Sworn
Stated as Follows:

- #1. I am the defendant in the above named case.
- #2. I Filed this motion pro-se and hereby asks the Court to appoint Counsel.
- #3. I ask that I be brought to Chester Co, prior to hearing so in order that I may get Subpoenas issued, and consult with Counsel.
- #4. I Respectfully request that I be allowed to make a brief Closing argument.
- #5. I the defendant was charged with Burglary 1st Degree Armed Robbery, kidnapping and Assault and Battery of a High and aggravated Nature,
- #6. I have and still maintain my innocence and promises to prove I was set up by former Great Falls Police Chief Mike Revels starting with the tainted jur
- #7. I discovered this after discovered evidence in "December", 09 after all other hearings.

Sworn to and subscribed

before me this 21 day

of December, 2009

[Signature]
Notary Public for South Carolina

My Commission Expires: 5/6/11

[Signature]

James B. Curry

12-21-09

CC:
Send copy to Judge King
and email to Solicitor Barfield

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 STATE OF SOUTH CAROLINA)
)
)
)
 vs.)
)
 JAMES B. CURRY,)
 Defendant.)
 _____)

IN THE COURT OF GENERALSESSIONS
 SIXTH JUDICIAL CIRCUIT

CASE NO: 2007-GS-12-529
 2007-GS-12-530
 2007-GS-12-531
 2007-GS-12-532

ORDER

CLERK OF COURT
 CHESTER COUNTY, S.C.

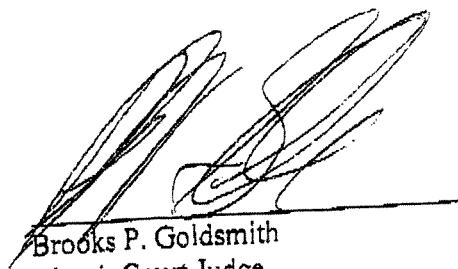
2008 MAR 18 P 2:33

FILED

THIS MATTER comes before the Court on several Motions for a new trial based on after discovered evidence by the Defendant. On ~~February 14, 2008~~ ^{February 14, 2008} the Defendant was convicted of first degree burglary, armed robbery, kidnapping and assault and battery of a high and aggravated nature. The Motions are based on the allegations that a juror committed a voir dire violation of which the Solicitor and police chief were aware; and that the Defendant was suffering from an undiagnosed mental disorder which prevented him from making a knowing and intelligent waiver of his right to counsel, and instead proceeding pro se. Defendant argues that if these violations had not occurred, the result of his trial would likely have been different. One of the Motions is accompanied by an affidavit of the Defendant; however, this affidavit does not set forth any specific allegation of after discovered evidence. The other Motions are unaccompanied by affidavits.

To prevail on a motion for a new trial based on after discovered evidence, a defendant must show 1) the evidence is such as will probably change the result if a new trial is granted; 2) the evidence has been discovered since the trial; 3) the evidence could not have been discovered prior to trial by the exercise of due diligence; 4) the evidence is material; and 5) the evidence is not merely cumulative or impeaching. The Court finds that the alleged violations did not likely affect the outcome of the trial. In addition, the allegations made in the Motions lack any factual support in the form of affidavits. The Court therefore denies all Motions.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Brooks P. Goldsmith', written over a horizontal line.

Brooks P. Goldsmith
Circuit Court Judge
Sixth Judicial Circuit

March 18, 2010
Chester, South Carolina

State of South Carolina
County of Chester,

Plaintiff,
Vs.

James B. Curry
defendant.

In the Court of General Sessions
Indictment # 2007-GS-12529-530-531-532

Defendants

Additional Grounds
in Support of New-Trial
Motion & Request For
Subpoena's

To: The Clerk of Court within the Six Judicial Circuit Court
Will you please be advised that this Request For Subpoena's
and Additional Grounds is in Support of the New-Trial Motion
that was Filed in the Court on Dec. 29th 09 the Additional Grounds
and request For Subpoena's is as Follow's ...

Ground

#2. the defendant is informed and believes that Solicitor Barfield
and former Great Falls Police Chief Mike Revels was aware of
the violation being committed by Juror #38 during Voir-dire and
did not disclose this information to the Court or defendant,
Thus, if defendant had been advised of the concealed information
he would have used his peremptory strike against Juror #38
in which the results of the trial could have been different.

Subpoena's

State vs. Kelly

* I James B. Curry hereby request that *9 Subpoena's be sent to me here at
Lee C. J. A.S.A.P to be in RE: to the New-Trial motion Filed on 12-29-09
so that in order there may not be any delays.

"CC:"
File

Respectfully Submitted.

J B Curry

State of South Carolina
County of Chester

In the Court of General Sessions
Indictments # 2007-65-12-529-530-531-532

State of South Carolina

Defendants

Vs.

3rd And Final

James B. Curry

Ground in Support of
New-Trial Motion

TO: The Administrative Judge within the Six Judicial Circuit Court
Will you please be advised that this Newly discovered evidence
is in Support of the New Trial Motion Filed in the Clerk's Office
On Dec, 29th, 09 is being listed as Grounds #3 is as follows...

Grounds #3. the defendant who was pro-se during trial in Feb, 08
has discovered that before said trial in Feb, 08 defendant
had an undiagnosed Mental disorder in which the defendant
is informed and believes that, then existing mental issue deprive
defendant of knowingly and intelligently waiving Counsel SC.ccd
16-3-28, Thus defendant believes that if Counsel had not been
Waved results of the trial could have been different the
defendant intends to expound upon this argument on date and
time Scheduled by the Court.

cc:
File

Respectfully Submitted

JBCurry

65W

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 James B. Curry, #186737,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

2010-CP-12-0228

ORDER OF DISMISSAL

FILED
 2011 APR 20 1:45
 CLERK OF COURT
 CHESTER CO S.C.

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed May 14, 2010. The Respondent made its Return on or about December 16, 2010. An evidentiary hearing was held on February 23, 2011, at the Lancaster County Family Court Facility. Jay W. McKeown, Esquire represented the Applicant. Suzanne H. White, Esquire, of the South Carolina Attorney General’s Office represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Applicant was also allowed to proffer testimony of Ms. Patricia Gaither. This Court also had before it a copy of the transcript of the Applicant’s trial, the records of the Chester County Clerk of Court, Applicant’s Appellate records and the Applicant’s records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Chester County Clerk of Court’s orders of commitment. The Chester County Grand Jury indicted the Applicant at the July 2007 term of General Sessions for burglary – 1st degree (07-GS-12-0529), armed robbery (07-GS-12-0530), kidnapping (07-GS-12-0531), and assault and battery of a high and aggravated nature (07-GS-12-0532). The Applicant proceeded

to trial *pro se* with Yale Zamore, Esquire, appointed to appear as stand-by counsel. On February 14, 2008, a jury convicted the Applicant of these charges. The Honorable Brooks P. Goldsmith sentenced the Applicant to confinement for twenty-five years each for burglary – 1st degree, armed robbery, and kidnapping, and ten years for assault and battery of a high and aggravated nature, with all running concurrently.

A timely Notice of Appeal was filed on Applicant's behalf. However, the Applicant indicated his desire to withdraw his appeal to pursue post-trial motions by signed affidavit. After the Applicant indicated his desire to withdraw his appeal, the original appeal was dismissed and the Remittitur was sent on April 8, 2009. In the interim, on July 29, 2008, Applicant filed his first motion for new trial based on after-discovered evidence. Counsel was appointed following a hearing and a second hearing was held before Judge Brooks P. Goldsmith. Judge Goldsmith dismissed Applicant's motion for a new trial in an oral order from the bench on February 9, 2009. Applicant appealed Judge Goldsmith's ruling and then subsequently withdrew that appeal and filed a second motion for new trial based on after-discovered evidence on April 7, 2009. Counsel was appointed for Applicant and a hearing was held on October 5, 2009. The Honorable Howard P. King dismissed Applicant's motion by written order dated October 13, 2009. The Applicant appealed Judge King's ruling, but then subsequently withdrew his direct appeal via signed affidavit dated December 23, 2009. This appeal was dismissed by written Order on January 22, 2010, and the Remittitur was sent on February 10, 2010. In the interim, Applicant filed a third motion for new trial based on after discovered evidence on December 29, 2009. Judge Goldsmith, without appointing counsel, dismissed Applicant's motion by written Order on March 18, 2010.

A handwritten signature in black ink, appearing to be the initials 'JG' or similar, written in a cursive style.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Invalid waiver of trial counsel, in that;
 - a. "Upon waiver of trial counsel rights applicant had a mental disorder,"
2. 5th, 6th, 14th amendment violation;
3. Juror misconduct discovered after trial, in that;
 - b. "Juror #38 intentionally concealed the fact that she had a social relationship with State witness Chief Mike Revels and Mayor H.C. Starnes,"
 - c. "Juror #38 failed to reveal relevant information and facts during the jury selection process that would have supported a challenge for cause or would have been a material factor in the use of a peremptory strike,"
4. Due process violations, in that;
 - d. "Corruption during the course of investigation, due process violation,"
 - e. "During trial the Applicant's defense and main contention was that the investigating officer Chief Mike Revels was corrupt and set him up. Since Applicant's conviction, Revels has been charged by the State of South Carolina for misconduct in a subsequent investigation which brings into question the veracity of the Applicant's investigation and the validity of the conviction,"
5. Violation of sixth amendment right to counsel, in that;
 - f. "Applicant was not appointed counsel to assist with a motion for a new trial on the ground of after discovered evidence filed on December 29, 2009."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).



Invalid Waiver of Trial Counsel

The Applicant alleged that his waiver of trial counsel was invalid because of an alleged mental disorder. This Court finds that Applicant failed to present any evidence of testimony in support of this claim. Therefore, this claim is denied and dismissed.

Due Process Violations

This Court finds that any allegation regarding the alleged actions of Former Police Chief Mike Revels and his credibility in Applicant's trial have been previously ruled upon and dismissed by post-trial motion. The doctrine of *res judicata* bars the Petitioner's claims. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.

The Applicant had a full opportunity to litigate the allegation of credibility issues as a result of charges Revels faces following Applicant's trial during his second Motion for a New Trial Based on After-Discovered Evidence. Applicant raised the issue during the hearing on his Motion and Judge King dismissed the issue in his written Order dated October 13, 2009. Judge King ruled that Revels' charges occurred after Applicant's trial and could therefore not have been used by Applicant to impeach Revels during Revels' testimony. Therefore, Judge King ruled that the evidence Applicant offered did not meet the test of after-discovered evidence. The Petitioner continues to raise the same meritless claim now by a collateral attack on his convictions. The public interest in finality of judgments requires that litigation must eventually



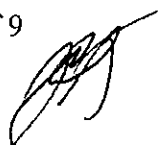
come to an end. Pursuant to Rule 12(b)(6), SCRCPP, this claim, barred by *res judicata*, is denied and dismissed.

Violation of Sixth Amendment Right to Counsel

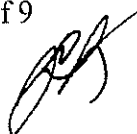
Applicant alleges a violation of his sixth amendment right to counsel because he was not provided counsel for his third Motion for new trial based on after-discovered evidence, filed on December 29, 2009. Applicant testified that he requested counsel when he filed the motion and believed that he was denied counsel at a critical stage, since he had not had a direct appeal following his conviction.

First, this Court finds that Applicant was not entitled to counsel for the motion for new trial based on after-discovered evidence filed December 29, 2009, because the motion was not heard and determined at a critical stage. A timely Notice of Appeal was filed on Applicant's behalf following Applicant's conviction and sentence. However, the Applicant indicated his desire to withdraw his appeal to pursue post-trial motions by signed affidavit, which stated that Applicant was aware that if he drops his direct appeal, he understands that he is waiving any issue that can be raised on appeal. After the Applicant indicated his desire to withdraw his appeal, the original appeal was dismissed and the Remittitur was sent on April 8, 2009. Applicant then filed this third motion for new trial based on after discovered evidence on December 29, 2009. Judge Goldsmith, without appointing counsel, dismissed Applicant's motion by written Order on March 18, 2010. This Court finds that Applicant had an opportunity to pursue a direct appeal and voluntarily withdrew that appeal, effectively beginning his pursuit of discretionary appeals of his conviction and sentence at that time.

Second, this Court finds that it was completely within Judge Goldsmith's discretion to grant or deny Applicant's motion for a new trial based on after-discovered evidence. The South



Carolina Supreme Court has long been held that it is in the discretion of a circuit court judge to grant or refuse a motion for new trial based on after discovered evidence. See State v. Carlos, 38 S.C. 225, 16 S.E. 832 (1893); See also State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009), cert. denied (Oct. 5, 2009), reh'g denied (Feb. 19, 2009), cert. denied, 130 S. Ct. 104, 175 L. Ed. 2d 70 (U.S.S.C. 2009). Applicant submitted three grounds in support of his motion for new trial based on after discovered evidence: 1) Defendant believes that Juror #38 Patricia Gaither was tainted and has committed a voir dire violation; 2) Defendant believes that Solicitor Barfield and Former Great Falls Police Chief Mike Revels was aware of the violation being committed by Juror #38 during voir dire; and 3) Defendant has discovered that he had an undiagnosed mental disorder, which deprived Defendant of knowingly and voluntarily waiving counsel for trial. In support of his motion, Applicant included one affidavit, which, among other basic factual information about his case, simply stated that he believed he was set up by Former Great Falls Police Chief Mike Revels, starting with the tainted juror and he discovered this evidence in December 2009. Judge Goldsmith dismissed Applicant's motion because the alleged violations did not likely affect the outcome of the trial and because the allegations made in the motion lacked factual support in the form of affidavits. Additionally, there is no requirement that counsel be appointed for a post-trial motion. The Sixth Amendment right to counsel extends only to the first right of appeal. Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1998, 95 L.Ed.2d 539 (1987). A defendant is not entitled to counsel for a new trial motion on the ground of after-discovered evidence, which follows a direct appeal and the evidence does not support a new trial for after-discovered evidence. State v. Clinkscales, 318 S.C. 513, 458 S.E.2d 548 (1995). Therefore, this court finds that Applicant was not entitled to counsel for his motion for new trial based on after-discovered evidence and this claim is denied and dismissed.



Newly Discovered Evidence of Juror Misconduct

The Applicant further alleged that he has recently discovered that Juror #38, Patricia Gaither, intentionally failed to disclose past employment with the Great Falls Sheriff's Department and knowledge of a witness, Mr. H.C. Starnes. A defendant requesting a new trial based on after discovered evidence must show that the evidence:

(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and (5) Is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

First, the Applicant's claims of newly discovered evidence include an allegation that he has previously raised in a post-trial motion and which was dismissed based on a lack of evidentiary support and failure to meet the requirements of newly discovered evidence. Applicant has also failed to include any evidence in his post-conviction relief application or at the hearing to support his allegations. There is no evidence that Ms. Gaither intentionally withheld this information. Respondent submits that again, Applicant has failed to meet his burden of proof as to these allegations.

Furthermore, the Applicant has not shown that the alleged evidence meets *any* of the requirements for after-discovered evidence. This evidence could have been discovered prior to trial had Applicant allowed himself to be represented by counsel; however, Applicant chose to proceed to trial *pro se* and did not gain the benefit of counsel at the stage of jury selection. Most importantly, the "new evidence" offered by the Applicant is not "material to the issue of guilt or innocence," and probably would not "change the result if a new trial was had." Hayden, Id. Ms. Gaither proffered testimony that she worked for the Sheriff's office almost twenty years prior to the Applicant's trial and was in high school more than thirty years earlier, when Mr. Starnes was



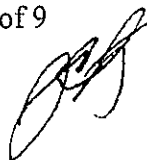
the principal. Ms. Gaither also testified that she had no knowledge of the Applicant prior to the trial and held no bias or prejudice against him at the time of trial. Applicant was convicted of these charges by jury, which gave a unanimous verdict of guilty. This Court finds that not only was the allegation previously ruled upon and denied, but Applicant still does not meet the requirements for a new trial based on after-discovered evidence. Therefore, this claim is denied and dismissed.

Constitutional, Statutory, and Rule Violations

Applicant made several allegations of issues regarding court rulings that this Court finds are appropriate only for direct appeal. Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). This Court finds that the Applicant filed an initial Notice of Appeal dated February 14, 2009, and then voluntarily withdrew his appeal on March 18, 2009, signing an affidavit which specifies that Applicant was informed that if he drops his direct appeal, he understands that he is waiving any issue that can be raised on appeal. The appeal was dismissed and the Remittitur was returned on April 8, 2009. Therefore, this Court finds that Applicant has voluntarily and knowingly waived the opportunity to pursue a direct appeal of his conviction. Therefore, this claim is denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.



This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243¹ for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 19 day of April, 2011.

Conrad, South Carolina

J. Ernest Kinard, Jr.
Presiding Circuit Court Judge

FILED
2011 APR 20 P 1:45
CLERK OF COURT
CHESTER CO S.C.

¹ Formerly Rule 227, SCACR. Rules 224 through 230, SCACR, were renumbered as Rules 240 through 246, SCACR, by order of the South Carolina Supreme Court dated April 29, 2009.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 James Bernard Curry #186737,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

2012-CP-12-0184

CONDITIONAL ORDER OF DISMISSAL

FILED
 2012 OCT 10 P 2:41
 CLERK OF COURT
 CHESTER COUNTY, S.C.

This matter comes before this Court by way of an application for post-conviction relief filed March 28, 2012. Respondent made its Return and Motion to Dismiss on or about September 26, 2012.

I. PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Chester County. The Applicant was indicted at the July 2007 term of the Court of General Sessions for Chester County for first degree burglary (07-GS-12-0529), armed robbery (07-GS-12-0530), kidnapping (07-GS-12-0531), and assault and battery of a high and aggravated nature (07-GS-12-0532). The Applicant proceeded to trial *pro se* with Yale Zamore, Esquire, appointed to appear as stand-by counsel. On February 14, 2008, a jury convicted the Applicant as indicted. The Honorable Brooks P. Goldsmith sentenced the Applicant to confinement for twenty-five (25) years each for first degree burglary, armed robbery, and kidnapping, and ten (10) years for assault and battery of a high and aggravated nature, all sentences to run concurrent.

A timely Notice of Appeal was filed on the Applicant's behalf. However, the Applicant indicated his desire to withdraw his appeal to pursue post-trial motions. After the Applicant indicated his desire to withdraw his appeal, the original appeal was dismissed and the Remittitur was sent on

April 8, 2009. A second appeal was filed and subsequently withdrawn following the denial of Applicant's first pre-trial motion, which was dismissed on October 13, 2009. The second appeal was dismissed by written Order on January 22, 2010. The Remittitur was sent on February 10, 2010. Applicant's second post-trial motion was then dismissed by written Order on March 18, 2010.

2010-CP-12-0228

The Applicant subsequently filed his first application for post-conviction relief (PCR) on May 14, 2010. In that application, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Invalid waiver of trial counsel; in that,
 - a. "Upon waiver of trial counsel rights the applicant had a mental disorder"
2. 5th, 6th, and 14th Amendment violation;
3. Juror misconduct discovered after trial; in that,
 - a. "Juror #38 intentionally concealed the fact that she had a social relationship with State witness Chief Mike Revels and Mayor H.C. Starnes,"
 - b. "Juror #38 failed to reveal relevant information and facts during the jury selection process that would have supported a challenge for cause or would have been a material factor in the use of a peremptory strike,"
4. Due process violations; in that,
 - a. "Corruption during the course of investigation, due process violation,"
 - b. "During trial the Applicant's defense and main contention was that the investigating officer Chief Mike Revels was corrupt and set him up. Since Applicant's conviction, Revels has been charged by the State of South Carolina for misconduct in a subsequent investigation which brings into question the veracity of the Applicant's investigation and the validity of the conviction."
5. Violation of sixth amendment right to counsel; in that,
 - a. "Applicant was not appointed counsel to assist with a motion for a new trial on the ground of after discovered evidence filed on December 29, 2009."

Respondent made its Return on or about December 16, 2010. An evidentiary hearing was convened at the Lancaster County Family Court on February 23, 2011. The Applicant was present and represented by Jay W. McKeown, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney

General's Office represented the Respondent. Judge J. Ernest Kinard, Jr., denied the Applicant's application by written order filed April 20, 2011.

The Applicant subsequently filed a document titled "Motion to Alter or Amend Order of Dismissal," dated April 26, 2011. The Applicant made its Return to Applicant's Motion to Alter or Amend Order of Dismissal on or about May 3, 2011. By written Order dated May 9, 2011, Judge Kinard dismissed Applicant's motion. The Applicant did not appeal the denial of his application.

Applicant's Current PCR Application

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Newly Discovered Evidence; in that,
 - a. Applicant has received a signed confession through the U.S. mail from the perpetrator who committed the crime for which the plaintiff was wrongfully convicted.

Before this Court are the records of the Chester County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, Applicant's previous PCR records, Applicant's current PCR application, and Respondent's Return and Motion to Dismiss.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statute of Limitations

This Court finds that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160 (2003). S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the Remittitur to the lower court from an appeal or the filing of the

final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this Application on February 14, 2008. The Applicant's appeal was denied and Remittitur was issued on February 10, 2010. The Applicant was therefore required to file the application before February 10, 2011. This Application was filed on March 28, 2012, which was after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

Therefore, this Court finds that the current application for post-conviction relief is summarily dismissed for failure to file within the time mandated by statute.

Successive Application

This Court finds that the current Application is summarily dismissed because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, Id.

After-Discovered Evidence

The Applicant alleges that he could not have raised this claim previously because it is newly discovered. A defendant requesting a new trial based on after discovered evidence must show that the evidence:

(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and (5) Is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

This Court finds that the Applicant has not shown that the alleged evidence meets the requirements for after-discovered evidence. Most importantly, Applicant has failed to show that this new evidence "[c]ould not by the exercise of due diligence have been discovered before the trial." Id. The Applicant failed to attach a copy of the alleged letter with his Application. This Court has no way of knowing whether a letter exists, who wrote the letter, or whether the statement could have been discoverable with the exercise of due diligence prior to trial. Additionally, the Applicant has claimed innocence all along, but was found guilty following a jury trial.

Furthermore, the Uniform Post-Conviction Procedure Act requires the Applicant to "...spe-

cifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50 (1976). Before the Court will hold an evidentiary hearing, the Applicant must make a prima facie showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). As the burden is on the Applicant to prove he has met the requirements for after-discovered evidence, this Court finds that the Applicant failed to meet his burden and this allegation is summarily dismissed.

Motion for Default & Motion to Recuse

This Court finds that the Applicant has failed to establish that he is entitled to default judgment. For an applicant to be granted default judgment in post-conviction relief he must show prejudice from the State's delay in failing to timely answer his Application. See Kneece v. State, 269 S.C. 177, 236 S.E.2d 745 (1977); Herring v. State, 262 S.C. 597, 206 S.E.2d 885 (1974). To show prejudice, an Applicant must show that his application has merit. Herring. Furthermore, compliance with the statutory time limits is discretionary with the trial court. Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973). Because Applicant failed to demonstrate that his application had merit or that he had suffered any prejudice as a result of any delay, this Court hereby dismisses Applicant's motion for default judgment.

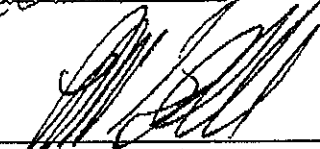
Additionally, this Court finds that Applicant has failed to demonstrate sufficient cause to support his motion to recuse. This Court finds that the holding in Floyd v. State, requiring a judge to recuse himself from a post-conviction relief hearing if he was the plea or trial judge is only applicable if a hearing is scheduled regarding the post-conviction relief matter. Floyd v. State, 303 S.C. 298, 299, 400 S.E.2d 145, 146 (1991). Because this Court finds that this application is successive, filed outside of the statute of limitations and the claim fails to meet the requirements of newly discovered evidence, there will be no hearing on this matter and Applicant's motion to recuse is hereby dismissed.

Summary


Pursuant to S.C. Code Ann. §17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Chester County Clerk of Court and shall serve opposing counsel at the following address:

Suzanne H. White, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this 1 day of October, 2012.



Brooks P. Goldsmith
Administrative Judge – Common Pleas
Sixth Judicial Circuit


_____, South Carolina

FILED
2012 OCT 10 P 2:14
CLERK OF COURT
CHESTER COUNTY, S.C.

STATE OF SOUTH CAROLINA)
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 COUNTY OF CHESTER)
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 James Bernard Curry, #186737,)
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 Applicant,)
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 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

2012-CP-12-0184

ORDER OF DISMISSAL

FILED

2013 DEC 23 P 12: 29

CLEK OF COURT
 CHESTER CO S.C.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 28, 2012. The Respondent made its Return and Motion to Dismiss on or about June 25, 2012. On October 1, 2012, Judge Brooks P. Goldsmith signed a Conditional Order of Dismissal. After receiving Applicant's objections and responses to the Conditional Order of Dismissal, this matter was set for a hearing on the State's Motion to Dismiss. The hearing took place at the Lancaster County Courthouse on August 6, 2013. The Applicant was present at the hearing and was initially represented by Tristan Shaffer, Esquire. During the hearing, Applicant requested to proceed *pro se*, and this Court allowed him to do so. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. In addition to the testimony, this Court had before it Applicant's records from the South Carolina Department of Corrections, the records of the Chester County Clerk of Court regarding the subject convictions, Applicant's appellate records, the current Application and associated records and documents, the trial transcript, and various exhibits entered into evidence by Applicant.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment by the Clerk of Court for Chester County. The Applicant was indicted for first degree burglary (07-GS-12-0529), armed robbery (07-GS-12-0532), kidnapping (07-GS-12-0531), and assault and battery of a high and aggravated nature (07-GS-12-0532) at the July 2007 term of the Court of General Sessions for Chester County. The Applicant proceeded to trial *pro se* with Yale Zamore, Esquire, appointed to appear as stand-by counsel. On February 14, 2008, a jury convicted the Applicant as indicted. The Applicant was sentenced by Judge Goldsmith to twenty-five (25) years' confinement each for first degree burglary, armed robbery, and kidnapping, and ten (10) years' confinement for assault and battery of a high and aggravated nature—all sentences to run concurrent.

A timely Notice of Appeal was filed on the Applicant's behalf. Thereafter, the Applicant indicated his desire to withdraw his appeal to pursue post-trial motions. The original appeal was then dismissed and the Remittitur was sent on April 8, 2009. A second appeal was filed and subsequently withdrawn following the denial of Applicant's first post-trial motion on October 13, 2009. On January 22, 2010, the second appeal was dismissed by written Order; the Remittitur was sent on February 10, 2010. The Applicant's second post-trial motion was dismissed by written Order on March 18, 2010.

2010-CP-12-0228

The Applicant subsequently filed his first application for post-conviction relief (PCR) on May 14, 2010. In that application, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Invalid waiver of trial counsel; in that,

- a. "Upon waiver of trial counsel rights the applicant had a mental disorder"
2. Violations of Applicant's 5th, 6th, and 14th Constitutional rights;
3. Juror misconduct discovered after trial; in that,
 - a. "Juror #38 intentionally concealed the fact that she had a social relationship with State witness Chief Mike Revels and Mayor H.C. Starnes,"
 - b. "Juror #38 failed to reveal relevant information and facts during the jury selection process that would have supported a challenge for cause or would have been a material factor in the use of a peremptory strike,"
4. Due process violations; in that,
 - a. "Corruption during the course of investigation, due process violation,"
 - b. "During trial the Applicant's defense and main contention was that the investigating officer Chief Mike Revels was corrupt and set him up. Since Applicant's conviction, Revels has been charged by the State of South Carolina for misconduct in a subsequent investigation which brings into question the veracity of the Applicant's investigation and the validity of the conviction."
5. Violation of sixth amendment right to counsel; in that,
 - a. "Applicant was not appointed counsel to assist with a motion for a new trial on the ground of after discovered evidence filed on December 29, 2009."

On or about December 16, 2010, Respondent filed its Return. On February 23, 2011, an evidentiary hearing was held in Lancaster County. The Applicant, who was present for the hearing, was represented by Jay W. McKeown, Esquire; Suzanne H. White, Esquire, of the South Carolina Attorney General's Office represented the Respondent. Judge J. Ernest Kinard, Jr., denied the Applicant's PCR application by written Order, filed on April 20, 2011.

Thereafter, the Applicant filed a document titled "Motion to Alter or Amend Order of Dismissal," dated April 26, 2011. On or about May 3, 2011, the Applicant filed a Return to Applicant's Motion to Alter or Amend Order of Dismissal. By written Order, dated May 9, 2011, Judge Kinard dismissed the Applicant's Motion. The Applicant did not appeal the denial of his application.

ALLEGATIONS

In this application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Newly Discovered Evidence; in that,
 - a. Applicant has received a signed confession through the U.S. mail from the perpetrator who committed the crime for which the plaintiff was wrongfully convicted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and to hear the testimony and arguments presented at the PCR hearing. In addition, this Court has observed the testimony and evaluated its credibility. Having weighed the testimony I hereby set forth the relevant findings of fact and conclusions of law, as required by S.C. Code Ann. § 17-27-80 (2003).

Motions of Appellant

The Applicant waived the right to proceed with his Motion to Recuse Judge Goldsmith. In addition, I denied the Applicant's Motion for Default against Respondent for lack of merit and a failure to demonstrate any prejudice.

Newly Discovered Evidence Claim

I find that this PCR Application should be dismissed for failure to comply with the filing procedures as outlined in the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160.

S.C. Code Ann. §17-27-45(a) provides:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the Remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations applies to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). In the instant case, the Applicant was convicted of the offenses which he challenges in this Application on February 14, 2008. The Applicant's appeal was denied, and a Remittitur was issued on February 10, 2010. Therefore, the Applicant was required to file an application before February 10, 2011. The Application was filed on March 28, 2012—more than a month after the statutory filing period had expired.

Furthermore, this Court finds that the current Application should be dismissed because it is successive to the previous PCR application. Successive applications for post-conviction relief are generally disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980).

S.C. Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive PCR applications are barred unless an applicant is able to identify a "sufficient reason" why novel grounds for relief were not raised at all or were not raised properly in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the allegations could have been raised by an Applicant in a previous application, then those grounds may not be raised by the Applicant in successive applications.

Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, Id.

In this case, the Applicant alleges that he could not have raised this claim previously because of newly discovered evidence. A defendant requesting a new trial based on after-discovered evidence must show that the evidence:

(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and (5) Is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

The Applicant has the burden of proving he has met the requirements for newly-discovered evidence. I find that the Applicant failed to meet this burden of proof.

The Applicant testified that, while "scrounging around the office getting Band-Aids and alcohol swabs," at the SCDC facility where he was located on April 24, 2011, he found a letter addressed to the Applicant from Mario Ford. The Applicant testified that in Ford's letter, dated January 15, 2008, Ford accepts responsibility for the crimes for which the Applicant had been convicted. The Applicant testified that Mr. Ford was murdered two months after the letter was written. The Applicant subsequently submitted two newspaper articles showing Lamario Ford was killed on March 31, 2009.

I do not find the testimony of the Applicant regarding Ford's letter to be credible. Specifically, I do not find it credible that Lamario Ford wrote a letter to the Applicant dated one month prior to Applicant's conviction in 2008, but did not send the letter to Applicant until 2009—as Applicant claimed the copy of the envelope reflected—which was then not discovered until 2011, more than two years later. Due to the Applicant's lack of credibility regarding the timing of the alleged discovery date of the "letter," I find that the Applicant has failed to meet his

burden of proof as to establishing a claim of newly discovered evidence sufficient to overcome the statute of limitations and law against successive applications. I find that this evidence would not likely affect the outcome of a trial if another were to be held, as the death of Lamario Ford makes any such evidence inadmissible due to lack of authentication as his testimony is silenced by death. Therefore, this application is denied and dismissed.

CONCLUSION

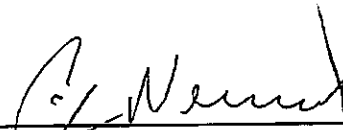
In consideration of the foregoing, I find and conclude that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief is hereby denied and dismissed with prejudice.

This Court cautions the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to the assistance of appellate counsel in seeking review of the denial of PCR. Rule 71.1(g) of the South Carolina Rules of Civil Procedure provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. South Carolina Appellate Court Rule 243 provides appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 19th day of December, 2013.



Clifton Newman
Presiding Judge

CLERK OF COURT
CHESTER CO. S.C.
2013 DEC 23 P 12:29
FILED

69W

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

James Bernard Curry, #186737,)
)
Applicant,)

2012-CP-12-0184

v.)

**ORDER DENYING MOTION TO
ALTER OR AMEND
ORDER OF DISMISSAL
AND DENYING REQUEST FOR
ORAL ARGUMENT**

State of South Carolina,)
)
Respondent.)
_____)

FILED
2014 FEB 26 P 3:26
CLERK OF COURT
CHESTER CO S.C.

This matter comes before the Court by way of Applicant's two Motions to Alter or Amend the Order of Dismissal (hereinafter "the Order") filed on December 23, 2013, in the Chester County Clerk of Court office and on Applicant's Motion Requesting Oral Argument regarding the previously-filed Motions to Alter or Amend the Order. The Applicant's first Motion to Alter or Amend, which alleges that the Order contains a false statement, was filed on January 2, 2014.¹ The Applicant filed a second Motion to Alter or Amend on January 6, 2014,² which notes the Applicant's objection to the Court's previous ruling on the authentication and admissibility of the letter allegedly written by Lamario Ford. The Applicant filed a Motion Requesting to Present Oral Argument on his previous Motions to Alter or Amend the Order on January 16, 2014.

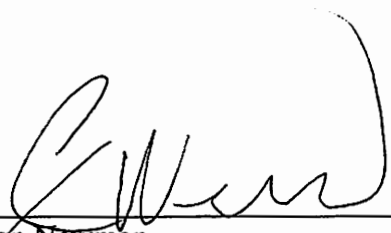
¹ The Chester County Clerk of Court timestamp indicates the Applicant's Motion was filed on January 2, 2013. This discrepancy in year is likely an error, as the date provided by the Applicant on the hand-written document is December 30, 2013.

² The Chester County Clerk of Court timestamp indicates the Applicant's Motion was filed on January 6, 2013. This discrepancy in year is likely an error; the date provided by the Applicant on the hand-written document is December 30, 2013.

Having carefully considered the arguments submitted and applicable law, the Court finds that both Motions to Alter or Amend should be DENIED. The Court further finds that oral argument would serve no useful purpose and the request for oral argument is DENIED.

IT IS THEREFORE ORDERED that Applicant's motions are hereby DENIED.

AND, IT IS SO ORDERED!



Clifton Newman
Presiding Judge

February 21, 2014
Columbia, South Carolina

69W

STATE OF SOUTH CAROLINA)
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 COUNTY OF CHESTER)
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)
 James Bernard Curry, #186737,)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SIXTH JUDICIAL CIRCUIT

2012-CP-12-0184

ORDER

FILED
 2014 JUL 21 P 12:01
 CLERK OF COURT
 CHESTER COUNTY, S.C.

This matter comes before the Court by way of Applicant's Motion for Relief from Judgment pursuant to Rule 60(b), SCRPC. The Respondent made its Return to this response on July 15, 2014. The Applicant requests relief from the final judgment of the court as it relates to his convictions and sentences received February 14, 2008, based upon fraud upon the court by the victim, John Broom, Solicitor Douglas A. Barfield, and former Great Falls Police Chief, Mike Revels.

First, this Court finds that the Applicant's Motion is improper, in that the Uniform Post-Conviction Procedure Act (the Act) is the proper avenue to set-aside a final judgment in a criminal case. S.C. Code Ann. §17-27-45(C), which provides the filing procedures for PCR applications, states:

If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

However, this Court finds the Applicant is attempting to use a Rule 60(b) Motion to disguise what is a successive application for PCR. Successive applications are disfavored and the

RECEIVED

JUL 23 2014

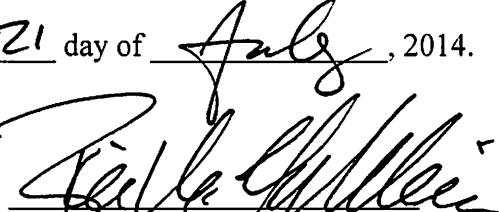
Referred to S. White ds

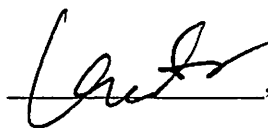
burden is on Applicant to establish that he could not have raised any new ground raised in a subsequent application in a previous application. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981). Applicant cannot meet that burden.

Second, this Court finds that the Applicant's Motion is untimely. The rule provision Applicant relies upon requires the motion to be made not more than one year after the judgment, order, or proceeding was entered or taken for reasons (1), (2), and (3). SCRCP Rule 60(b). The Applicant was convicted on February 14, 2008, which would mean that his motion for relief from judgment should have been filed by February 15, 2009.

This Court further finds that oral argument would not aid in the reconsideration of this Motion. Therefore, this Court dismisses the Applicant's Motion with prejudice.

AND IT IS SO ORDERED this 21 day of July, 2014.


 Brian M. Gibbons
 Sixth Judicial Circuit
 Chief Judge for Administrative Purposes

, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

State of South Carolina,

v.

James B. Curry,

Defendant

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

2007-GS-12-529
2007-GS-12-530
2007-GS-12-531
2007-GS-12-532

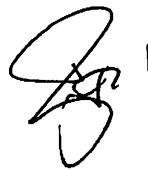
ORDER

2014 DEC -5 P 1:22
CLERK OF COURT

This matter is before the Court on pro se Defendant's current motion for a new trial based on after-discovered evidence pursuant to 29(b), SCRCrimP. Defendant also believes that granting his motion for a new trial will serve the "interest of justice." After hearing the oral arguments, reviewing the documents submitted, and considering applicable law, the Court hereby denies Defendant's motion for a new trial. Before addressing the merits of Defendant's current motion, the Court needs to set forth underlying details.

PROCEDURAL HISTORY

This case has a long and convoluted procedural history stemming from the Defendant's voluminous filings with the court. Defendant was convicted in the Court of General Sessions for Chester County for the offenses of Burglary First Degree, Armed Robbery, Kidnapping, and Assault and Battery of a High and Aggravated Nature on February 14, 2008. He was sentenced to 25 years each for the Burglary, Robbery and Kidnapping and 10 years for the ABHAN, all to run concurrently by Judge Goldsmith. He initially appealed, but the case was dismissed by the Court of Appeals on July 17, 2008. Thereafter, he filed a motion for a New Trial based on after-discovered evidence. That motion was denied by Judge Goldsmith in February of 2009. The defendant then moved again for a New Trial based on after-discovered evidence on October 5,



2009. Judge King denied both the defendant's motion for a new trial on October 16, 2009 as well as his motion for reconsideration on November 30, 2009.

The Defendant has also filed several applications for Post-Conviction Relief (PCR). The first PCR application was filed May 14, 2010. In that application, the defendant alleged he was being held in custody unlawfully for the following reasons:

1. Invalid waiver of trial counsel.
2. 5th, 6th, 14th amendment violation.
3. Juror misconduct discovered after trial.
4. Due process violations.
5. Violation of Sixth Amendment right to counsel.

The Respondent made its Return on or about December 16, 2010 and an evidentiary hearing was held on February 23, 2011. Judge Kinard denied the application because the application failed to establish any constitutional violations or deprivations.

A second PCR application was filed March 28, 2012. The Defendant alleged he was being held in custody unlawfully for the following reasons:

1. Newly discovered evidence.

Respondent made its Return and Motion to Dismiss on or about September 26, 2012. Judge Goldsmith dismissed the application with prejudice on October 1, 2012.

The Defendant has also filed five lawsuits as follows: (1) Curry v. Guilfoyle and Chester News & Reporter, 2008-CP-12-0523; (2) Curry v. Watkins, 2008-CP-12-0649; (3) Curry v. Barfield, 2009-CP-12-0044; (4) Curry v. Revels & Town of Great Falls, 2009-CP-12-0225; and (5) Curry v. Revels & Town of Great Falls, 2009-CP-12-0836. All five of these cases were dismissed. In his order of dismissal, Judge King admonished the Defendant against filing "frivolous, non-legitimate lawsuits." Judge King cited S.C. Code Ann. §24-27-200 as well as Furtick v. S.C. Dept. of Corrections, stating [i]f a court finds a prisoner has: (1) submitted a

malicious or frivolous claim, or one that is intended solely to harass the party filed against; (2) testified falsely or otherwise presented false evidence or information to the court; (3) unreasonably expanded or delayed a proceeding; or (4) abused the discovery process; then the "prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined" by the Department of Corrections. Furtick v. S.C. Dept. of Corrections, 374 S.C. 334, 649 S.E. 2d 35 (S.C. 2007). This order clearly served notice on the Defendant that any future frivolous, repetitious, or unfounded lawsuits, or continued unreasonable demands on the Clerk of Court could result in a forfeiture of all or part of his earned work, education, or good conduct credits as provided by Furtick. Furthermore, the Defendant could be held in contempt pursuant to S.C. Code Ann. §24-27-300 if the court finds that the Defendant intentionally violated the terms Judge King's order, punishable by up to one year to be served consecutively to Defendant's previously imposed underlying sentence.

CURRENT NEW TRIAL MOTION

Defendant seeks a new trial again based on what he describes as "after-discovered evidence" pursuant to Rule 29(b) of the SC Rules of Criminal Procedure. This is the Defendant's fourth time requesting a new trial on after-discovered evidence, not including his successive PCR applications or his other dismissed lawsuits. He alleges that a portion of the transcript demonstrates that a witness for the State was lying and that the Solicitor colluded with the witness to present false testimony. After a lengthy presentation in Court, the Court finds there is absolutely no merit to Defendant's contentions. Defendant had the opportunity to cross-examine this state witness at his trial to point out credibility issues as well as had the ability to call witnesses in his defense. This is not what Rule 29(b) envisions as after-discovered evidence. This is a credibility determination for the trial jury, which, after considering and weighing all of

the evidence, convicted the Defendant. Defendant's "buyer's remorse" of representing himself in his trial and apparently not preparing his defense very well is not after-discovered evidence entitling him to a new trial. As such, Defendant's motion is denied.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This court finds that Defendant has had more than his fair share of "bites at the apple" so to speak. The Defendant continues to raise the same meritless claims by repeated collateral attacks on his convictions. The public interest of finality of judgments requires that this litigation must eventually come to an end.

Since Judge King's order, the Defendant has continued to inundate the Chester County Clerk's office with voluminous letters, motions, filings and other demands. It seems that the threat of forfeiture of good behavior credits and even possible jail-time has done very little to dissuade Defendant from harassing the clerk's office. The criminal docket is backed up with cases involving defendants with legitimate claims. There is no room for someone who has exhausted the available remedies, yet continues to bombard the court with unnecessary work. At some point, it has to come to an end. This order proposes such a conclusion.

Based upon the repetitive and frivolous nature of Defendant's motions, and in reliance on In re Theron Maxton, 325 S.C. 3, 478 S.E.2d 679 (1996), the Court directs the Chester County Clerk of Court to not accept any future correspondence from the Defendant unless he pays the normal filing fee. Additionally, this Court finds that the Defendant is required to provide a properly notarized affidavit certifying that the Defendant believes in good faith that the matter raised is not frivolous.

This Court also finds that if the Defendant submits a motion that is accompanied with a notarized affidavit and a filing fee, the Clerk's office is directed to submit the motion to the Chief

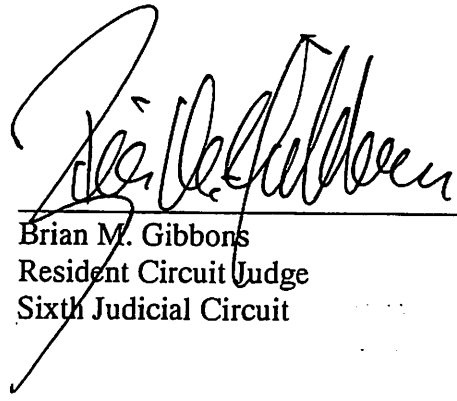
Administrative Judge for General Sessions. If the Administrative Judge finds that the motion is proper, it would then be submitted for filing. However, if the Administrative Judge finds the documents frivolous, Defendant may be held in contempt pursuant to S.C. Code Ann. §24-27-300. This order shall also be served on the Attorney General's office, who is authorized pursuant to S.C. Code Ann. §24-27-200 to investigate and prosecute the Defendant for possible contempt of court for any future frivolous filings.

This order is intended to fully resolve any and all pending motions and requests the Defendant has made to resolve everything at this level. To the extent this order does not specifically address a matter previously brought up by the Defendant, that matter is hereby DENIED to give the Court of Appeals authority to review, if the Defendant appeals.

THEREFORE, this Court hereby DENIES the Defendant's current motion for a new trial, and finally concludes this litigation.

IT IS SO ORDERED.

December 4, 2014



Brian M. Gibbons
Resident Circuit Judge
Sixth Judicial Circuit

2014 DEC -5 PM 1:22

"Exhibit D"

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	
	)	SIXTH JUDICIAL CIRCUIT	
COUNTY OF CHESTER)		
	)	2012CP1200184	
)		
State of South Carolina,	)	2007-GS-12-529	RECEIVED DEC 02 2021 SC Court of Appeals
	)	2007-GS-12-530	
Vs.	)	2007-GS-12-531	
	)	2007-GS-12-532	
James B. Curry,)		
)		
Defendant.	)	ORDER	
)		

This matter is before the Court on *pro se* Defendant's **current motion for a new trial based on after-discovered evidence pursuant to Rule 29(b), SCRCrimP.** Defendant also believes that granting this motion for a new trial will serve the **"interest of justice."** After hearing the oral arguments, reviewing the documents submitted, and considering the applicable law, the Court hereby denies the Defendant's motion for a new trial.

Prior to this motion coming before the court, The Honorable Brian Gibbons signed an Order on December 4, 2014 describing the long and convoluted procedural history of this Defendant's collateral attack on his convictions and numerous lawsuits he has filed since his conviction. Because of the excesses, voluminous, and meritless filings, the December 4, 2014 Order directed the Chester County Clerk of Court to submit any future motions, correspondence, or filings from the Defendant to the Chief Administrative Judge for General Session for review prior to being accepted for filing. The order further provided that the Defendant pay the normal filing fee and that he attach a properly notarized affidavit certifying that the Defendant believes in good faith that the new matter raised is not frivolous.

In accordance with the December 4, 2014 order, the Clerk's office submitted Defendant's motion to the Chief Administrative Judge for General Sessions. This Court received the



documents submitted and heard oral arguments from the Defendant on November 3, 2021. After review and consideration, this Court finds the documents submitted by the Defendant are not proper and failed to comply with Judge Gibbons' Order. The court did not find an accompanying affidavit in the Clerk of Court's file.

In spite of the fact that the Defendant failed to comply with the conditions provided in the December 4, 2014 order; this Court allowed Defendant to present his motion. The Court is of the belief that this motion is the Defendant's fifth request for a new trial on after-discovered evidence pursuant to Rule 29(b) of the SC Rules of Criminal Procedure. In this motion the Defendant alleges that, during Voir Dire, a juror failed to disclose that she was employed within the Chester County Courthouse. There is no merit to these allegations of juror misconduct or misrepresentation of her employment. Defendant failed to provide any corroborative evidence that the juror was employed within the Chester County Courthouse. The Clerk of Court represented to the Court that she has been the clerk for more than thirty (30) years and that she is confident that the Juror was never employed within the Chester County Courthouse. It has become evident that Defendant continues to flood the Court system with claims of new evidence or after-discovered evidence, regardless of the merits of the claim, in hopes of receiving a new trial. As such, even if this motion was properly filed this Court denies Defendant's motion for a new trial.

THEREFORE, this Court refuses to consider these frivolous filings and again instructs the Clerk of Court to not accept any future motions, correspondence, or filings from Defendant until they are submitted to the Chief Administrative Judge for General Sessions with a notarized affidavit and the filing fee for a preliminary determination of whether the submission is or is not frivolous. The Clerk of Court shall henceforth examine any future documents, filings, or motions

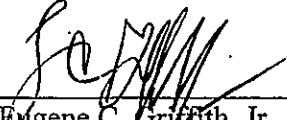
Exhibit D

that are submitted and return them unless they comply with the conditions contained in the

December 4, 2014 Order.

IT IS SO ORDERED.

November 5, 2021
Chester County, South Carolina



Eugene C. Griffith, Jr.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF CHESTER)	
	)	2012CP1200184
)	
State of South Carolina,	)	2007-GS-12-529
)	2007-GS-12-530
Vs.)	2007-GS-12-531
)	2007-GS-12-532
James B. Curry,)	
)	
Defendant.)	ORDER

FILED

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CLERK OF COURT
CHESTER CO S.C.

This matter comes before the Court on *pro se* Defendant's motion for a rehearing on a matter heard on November 3, 2021. The procedural history of this matter is rather convoluted in that the Defendant has previously filed appeals under the original indictment numbers and a PCR collateral attack under a new civil case number. Defendant has combined the two captions and filed this motion for a rehearing in an attempt to renew his argument for a new trial. The Court understands that the Defendant's motion is better characterized as a motion to reconsider its ruling under Rule 59(e) SCRCP. This Court issues this Order in light of both captions for the sake of simplicity.

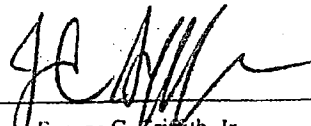
At the November 3, 2021 hearing Defendant was heard in regards to his motion for a new trial on the basis of after-discovered evidence pursuant to Rule 29(b), SCR CrimP from a jury trial. Notwithstanding the Order issued by the Court on December 4, 2014, the Court allowed Defendant to provide oral testimony and argument on the merits of his motion. After hearing the Defendant's arguments on his motion, this Court found these allegations lacked merit and denied Defendant's motion for a new trial.

Defendant now argues in his motion to reconsider claiming that he erred in his original motion. The defendant has made a continued and repeated motions regarding his trial and his perceived denial of due process, violation of court rules, and misconduct by court officials.

Defendant has not provided any new evidence to corroborate the claims he continues to repeatedly make. For these reasons, this Court finds Defendant's motion for rehearing lacks merit and is therefore denied.

This Court again makes reference to the prior Order of The Honorable Brian Gibbons dated December 4, 2014. This Order went into great detail about the procedural history of the many challenges the defendant has made to his convictions and that he has exhausted all his challenges. That Order outlines the conditions under which the Defendant must comply in order to make filings valid. This Court also finds that the Defendant has failed to comply with that Order in his recent filings.

IT IS SO ORDERED.



Eugene C. Griffith, Jr.

December 10, 2021
Chester County, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
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 State of South Carolina,)
)
 v.)
)
 James B. Curry,)
)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 FOR THE SIXTH JUDICIAL CIRCUIT

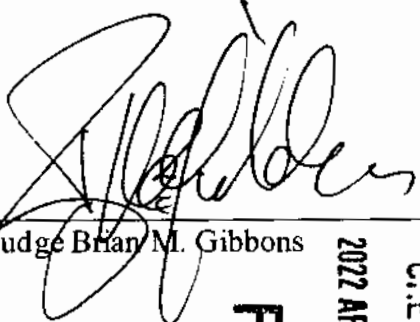
2007-GS-12-529, 530, 531, 532

**ORDER DENYING MOTION TO BE HEARD
 ABOUT A VOIR DIRE VIOLATION**

This matter comes before the court on the Defendant's motion to be heard dated April 5, 2022. The Court received the Defendant's motion via mail on April 5, 2022. The Defendant is currently incarcerated at Perry Correctional Institution in Pelzer, South Carolina. The Court has reviewed the Motion, as well as the Affidavit in Support of Motion submitted by the Defendant. This issue has been litigated numerous times, and no new evidence has been alleged or submitted by the Defendant. This Motion appears to be further re-hashing of the same issues that have been thoroughly vetted by this Court and the Appellate Courts. The Motion to be Heard is **DENIED**, and no hearing is necessary.

So Ordered.

April, 14, 2022
 Chester, South Carolina


 Judge Brian M. Gibbons

FILED

**CLERK OF COURT
 CHESTER CO S.C.
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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)
)
 State of South Carolina,)
)
 v.)
)
 James B. Curry,)
)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS
 FOR THE SIXTH JUDICIAL CIRCUIT

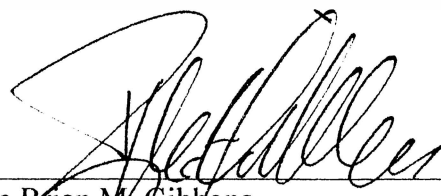
2007-GS-12-529, 530, 531, 532

**ORDER DENYING MOTION FOR
 REHEARING BEFORE THE CHIEF
 ADMINISTRATIVE JUDGE,
 and
 ORDER SETTING HEARING ON REQUEST
 FOR RECUSAL**

This matter comes before the court on the Defendant’s motion for rehearing dated April 16, 2022. The Court received the Defendant’s motion via mail on April 29, 2022. The Defendant is currently incarcerated at Perry Correctional Institution in Pelzer, South Carolina. The Court has reviewed the Motion submitted by the Defendant. This issue has been litigated numerous times, and no new evidence has been alleged or submitted by the Defendant. This Motion appears to be further re-hashing of the same issues that have been thoroughly vetted by this Court and the Appellate Courts, including the Defendant’s previous motion dated April 5, 2022. The Motion for Rehearing is **DENIED**.

Additionally, Defendant’s motion includes a motion “for Judge Gibbons to recuse his self.” There is no argument, facts, or evidence set forth in support of this motion. The Court will allow Mr. Curry to be heard on that Motion in open court at a hearing to be scheduled and noticed. The Attorney General’s Office shall be in attendance.

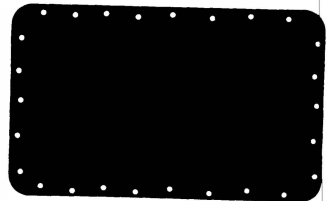
So Ordered.



 Judge Brian M. Gibbons
 Chief Administrative Judge (since 1/1/22)
 Sixth Judicial Circuit

May, 16, 2022
 Chester, South Carolina

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CLERK OF CRT CHESTER SC

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTER)

IN THE COURT OF GENERAL SESSIONS)
FOR THE SIXTH JUDICIAL CIRCUIT)

James B. Curry, SCDC #186737,)
Applicant,)

Case No.: 2007-GS-12-529, -530, -531, -532)

v.)

ORDER DENYING MOTION TO RECUSE)
AND ORDERING FORFEITURE OF)
CREDITS PURSUANT TO)
S.C. CODE ANN. § 24-27-200)

State of South Carolina,)
Respondent.)

This matter is before this Court based on a motion by James B. Curry, SCDC # 186737, for the recusal of this Court from hearing various motions and collateral attacks he has filed or attempted to file challenging his 2008 convictions for first-degree burglary, armed robbery, kidnapping, and assault and battery of a high and aggravated nature (2007-GS-12-529, -530, -531, -532). Since his conviction, Curry has filed two post-conviction relief actions pursuant to S.C. Code Ann. §17-27-10 et seq., numerous motions for a new trial pursuant to Rule 29(b), SCRCrimP, and appeals from the denial of these actions. Curry has repeatedly filed or attempted to file documents or new actions challenging his convictions with the Chester County Clerk of Court.

In response to the prolific filings and other documents Curry has sent to the Chester County Clerk of Court, the undersigned, acting in its capacity as Chief Administrative Judge for the Sixth Judicial Circuit, issued an order on December 4, 2014, in an attempt to curtail Curry's repetitive and frivolous filings. In this order, this Court:

[D]irects the Chester County Clerk of Court to not accept any future correspondence from [Curry] unless he pays the normal filing fee. Additionally, this Court finds that [Curry] is required to provide a properly notarized affidavit certifying that [Curry] believes, in good faith that the matter raised is not frivolous.

This Court also finds that if the Defendant submits a motion that is accompanied with a notarized affidavit and a filing fee, the Clerk's office is directed to submit the motion to the Chief Administrative

Judge for General Sessions. If the Administrative Judge find that the motion is proper, it would then be submitted for filing. However, if the Administrative Judge finds the documents frivolous, [Curry] may be held in contempt pursuant to S.C. Code Ann. § 24-27-300. This order shall also be served on the Attorney General's office, who is authorized pursuant to S.C. Code Ann. §24-27-300 to investigate and prosecute [Curry] for possible contempt of court for any future frivolous filings.

(Order dated Dec. 4, 2014).

Despite this order, Curry has continued to inundate the Chester County Clerk of Court with documents. In a further attempt to curtail Curry's repetitive and frivolous filings, the Honorable Eugene C. Griffith, Jr., acting in his capacity as Chief Administrative Judge for the Sixth Judicial Circuit, issued a subsequent order dated November 5, 2021, again admonishing Curry's behavior and reminding him of the restriction on future filings put in place by this Court's December 2014 order. Judge Griffith then issued another order on December 10, 2021, again referencing this Court's December 2014 order and finding Curry was in violation of this order.

Despite these three orders, Curry has continued to inundate the Chester County Clerk of Court with attempted filings, letters, and other documents, some of which contain threatening language. One such document was a motion to recuse this Court from hearing any motions associated with his case. In response, this Court convened a hearing on Curry's motion for recusal on July 20, 2022, at the Chester County Courthouse. Curry was transported from the South Carolina Department of Corrections for this hearing. Also present for this hearing were Sixth Circuit Deputy Solicitor Candice A. Lively and Senior Assistant Deputy Attorney General Megan Harrigan Jameson from the South Carolina Attorney General's Office.

At the start of this hearing, Curry was provided an opportunity to explain the grounds for his motion to recuse this Court. Curry argued the December 2014 order should be quashed, along with the two subsequent orders issued by Judge Griffith, based on inaccuracies in the order. It is



these purported inaccuracies Curry cites as the reason why this Court should be recused. After hearing from Curry, this Court **DENIES** the motion for recusal.

Moreover, this Court finds that Curry continues to overwhelm the Chester County Clerk of Court with correspondence, documents, and attempted filings despite three separate orders admonishing Curry to stop his repetitive and frivolous filings. Curry's continued behavior impedes the administration of justice and wastes limited judicial resources as he attempts to litigate issues that have already been litigated and/or patently lack merit. This Court finds that Curry is in violation of this Court's December 2014 order, and notes that Judge Griffith previously found Curry in violation of this December 2014 order.

In response to this behavior in violation of previous court orders, this Court finds that Curry has forfeited his work, education, or good conduct credits in accordance with Section 24-27-200.

Pursuant to Section 24-27-200,

A prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined by the Department of Corrections upon recommendation of the court if the court finds that the prisoner has done any of the following in a case pertaining to his incarceration or apprehension filed by him in state or federal court or in an administrative proceeding while incarcerated:

- (1) submitted a malicious or frivolous claim, or one that is intended solely to harass the party filed against;
- (2) testified falsely or otherwise presented false evidence or information to the court;
- (3) unreasonably expanded or delayed a proceeding;
- or
- (4) abused the discovery process.

The court may make such findings on its own motion, on motion of counsel for the defendant, or on motion of the Attorney General, who is authorized to appear in the proceeding, if he elects, in order to move for the findings in a case in which the State or any public entity or official is a defendant.



S.C. Code Ann. § 24-27-200. In this case, this Court finds that Curry has violated subsections (1), (2), and (3) of Section 24-27-200 with his repetitive and frivolous filings. This Court notes that Judge Griffith previously found that Curry was in violation of this Court's December 2014 order. Accordingly, this Court recommends and **ORDERS** the South Carolina Department of Corrections to remove Curry's earned work, education, or good conduct credits in accordance with Section 24-27-200.¹

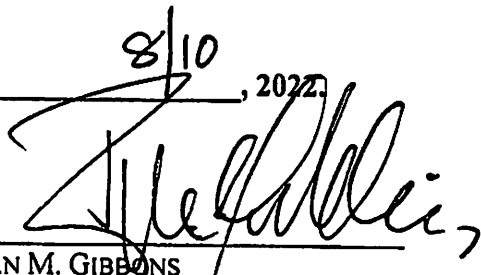
CONCLUSION

Based on the foregoing, this Court **DENIES** Curry's motion for recusal of this Court.

Moreover, this Court finds that Curry has repeatedly violated this Court's December 2014 order regarding future filings, and notes that Judge Griffith previously found Curry in violation of that order. Accordingly, this Court **ORDERS** the South Carolina Department of Corrections to remove Curry's earned work, education, or good conduct credits in accordance with Section 24-27-200.

AND IT IS SO ORDERED this _____ day of 8/10, 2022.

, South Carolina


BRIAN M. GIBBONS
Chief Administrative Judge
Sixth Judicial Circuit

¹ This Court is aware of Wade v. State, 348 S.C. 255, 559 S.E.2d 843 (2002), wherein our Supreme Court found that Section 24-27-200 did not apply in post-conviction relief proceedings. However, Applicant's repetitive and frivolous documents and attempted filings do not reference any past or on-going post-conviction relief action, and, accordingly, Wade does not control in the present case.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
)
vs.)
)
JAMES B. CURRY Inmate #186737)
)
Defendant)
_____)

ORDER AND RULE TO SHOW CAUSE
07-GS-12-529-532

The Court will attempt to give a summary of the tortured and aggravating history of this case involving the Defendant, James B. Curry.

The Defendant was found guilty, after a jury trial on February 14, 2008, of Burglary First Degree, Kidnapping, Armed Robbery and Assault and Battery. Judge Brooks Goldsmith sentenced him to concurrent terms of 25 years each on the first three charges and 10 years on the remaining charge. His appeal of this conviction was denied by the South Carolina Court of Appeals. There is some indication in the file that the Defendant will be eligible for release on August 29, 2028. In

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CLERK OF COURT
CHESTER-00 S.C.

addition, the Defendant has filed multiple Post-Conviction Relief actions all of which have been denied and dismissed.

Judge Howard King issued an Order on December 17, 2009 in the case of James B. Curry vs. Former Chief Mike Revels and Town of Great Falls, 09-CP-20—00836 dismissing this case. This case, as well as four other lawsuits arising after the Defendant's conviction, dealt with issues resulting from his charges he was convicted on. All lawsuits were dismissed. In addition, Judge King found that all of these frivolous lawsuits placed an unreasonable demand on court personnel. Judge King went further and found that continued frivolous filings could subject the Defendant to contempt sanctions of up to one year consecutive to his previously imposed imprisonment on the criminal charges.

Thereafter, the Defendant has filed multiple Motions for New Trial based upon "newly discovered evidence" which resulted in a 2014 Order from Judge Brian Gibbons and two 2021 Orders from Judge Eugene Griffith.

Judge Gibbons in his Order of December 4, 2014 denied the Motion and found that if a Chief Administrative Judge finds any of the Defendant's future filings to be frivolous, the Defendant may be held in contempt of court.

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CLERK OF COURT
CHESTER CO S.C.

Judge Griffith in his Order of November 5, 2021 denied the Motion as well and further in his Order of December 10, 2021 found that the Defendant had not complied with Judge Gibbons' 2014 Order.

Then on June 7, 2024 the Defendant files a Motion to Dismiss his charges he was convicted on in 2008. This Court wrote the Defendant a letter on June 13, 2024 telling the Defendant that it did not have jurisdiction concerning this Motion and that he was not to respond to this letter. Contrary to the Court's instruction, he responded by seeking an Order concerning the ruling and later made a request for a hearing on his Motion.

The Defendant has made other filings with the Clerk's office along with letters some of which were of a threatening nature.

Accordingly this Court, *sua sponte*, HEREBY ORDERS the Defendant to appear on September 18, 2024 at 3:00 pm at the Chester County Courthouse and show cause why he should not be held in direct willful criminal contempt of court for his repeated frivolous filings and total disregard of the specific instructions and findings by the Court in the prior rulings and to further

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CLERK OF COURT
CHESTER CO S.C.

show cause why any contempt citation(s) should not run consecutive to each other and consecutive to is current prison sentence.

IT IS FURTHER ORDERED that the only issue to be dealt with by the Court at the above hearing is the issue of contempt.

AND IT IS SO ORDERED.



DONALD B. HOCKER
CHIEF ADMINISTRATIVE JUDGE FOR THE SIXTH
JUDICIAL CIRCUIT

Chester, South Carolina
Date: 7-19-24



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CLERK OF COURT
CHESTER CO S.C.

1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 *
 2 COUNTY OF CHESTER * TRANSCRIPT OF RECORD

3 -----X
 4 STATE OF SOUTH CAROLINA, *
 *
 5 State, *
 *
 6 vs. * Case No. 2007-GS-12-00532
 * 2007-GS-12-00530
 * 2007-GS-12-00529
 7 * 2007-GS-12-00531
 8 JAMES B. CURRY, *
 *
 9 Defendant.*
 -----X

November 21, 2024

B E F O R E:

The Honorable Donald B. Hocker, Presiding Judge

A P P E A R A N C E S:

Candice Lively, Esq.
Assistant Solicitor for the State

William Frick, Esq.
Attorney for the Defendant

Recorded by: DCRP Court Monitor Jenny Wright

Transcribed by: Bobbi Fisher, RPR
SC Official Court Reporter III

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I N D E X

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DESCRIPTION

PAGE

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Proceedings

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E X H I B I T S

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(None.)

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COURT REPORTER LEGEND

20

Dash (--) Indicates an interruption in speech

21

Ellipses (...) Indicates trailing off in speech

22

(ph) Indicates phonetic word

23

[Verbatim] Indicates the word is said as written

24

(Indiscernible)[Transcription] Indicates word(s) is not
known due to audio recording quality

25

P R O C E E D I N G S

(The following proceedings started at 2:09 p.m.):

THE COURT: All right. We're on the record in the -- today in the case of State of South Carolina versus James B. Curry under the original indictment, 07-GS-12-529 through 532.

I'm just going to summarize the order and Rule to Show Cause that the Court issued back on July 19th of this year after a jury trial on February 14th of 2008. Mr. Curry was found guilty of first degree burglary, kidnapping, armed robbery, assault and battery. He received concurrent terms of 25 years each on the aforementioned pre-charges; ten years on the remaining charge.

This appeal was denied by the South Carolina Court of Appeals, indicating that there were multiple post-conviction relief actions that were filed by Mr. Curry, all being denied and dismissed.

I indicate in the order and Rule to Show Cause that Judge Howard King issued an order on December 17th of 2009, in the case of Curry v. Former Chief Mike Revels and Town of Great Falls, dismissing the case and indicating that they found the case to be frivolous, indicating that any future frivolous filings would subject the defendant to contempt sanctions up to one year consecutive to his previously imposed imprisonment on the criminal charges.

My order and Rule to Show Cause further reflects that

1 multiple motions for new trial, based on newly discovered
2 evidence, were filed by Mr. Curry, and that resulted in an
3 order from Judge Brian Gibbons in 2014 and also two orders
4 from Judge Eugene Griffith in 2021, both indicating that any
5 future frivolous filings would subject the defendant to be
6 held in contempt of court. I think Judge Gibbons' order
7 actually reflects that the chief administrative judge would
8 have jurisdiction to deal with contempt proceedings concerning
9 Mr. Curry.

10 Judge Griffith's order -- both orders kind of mimic what
11 Judge Gibbons had ordered. And then, on June 7th of this
12 year, the defendant files a motion to dismiss his criminal
13 convictions in 2008. And this Court -- this judge wrote the
14 defendant a letter on June 13th, 2024, telling the defendant
15 that it did not have jurisdiction concerning his motion and
16 that he was not to respond to the Court's letter.

17 Contrary to the Court's instruction in the letter, the
18 Court received a letter from Mr. Curry requesting an actual
19 ruling and a hearing on the motion, notwithstanding the letter
20 acting as an order, indicating that there would not be a
21 ruling on the motion.

22 As a result of multiple filings with the Court, along
23 with some letters that were of a threatening nature, this
24 Judge, as chief administrative judge of the Sixth Judicial
25 Circuit, found it necessary to institute these contempt

1 proceedings against Mr. Curry.

2 We originally had a hearing scheduled for September 18th,
3 but through an inadvertence, Mr. Curry was not transported by
4 SCDC, and the hearing was rescheduled to today.

5 What I first plan to do is have Betty Jo Lawson with the
6 clerk's office to summarize how many filings, motions after
7 each order -- Judge King's 2009 order, Judge Gibbons' 2014
8 order, and Judge Griffith's 2021 orders -- how many filings
9 have been made by Mr. Curry. And then I will allow Mr. Frick,
10 who is representing Mr. Curry, to make argument.

11 So, Madam Clerk Lawson, can you inform the Court
12 basically how many filings that Mr. Curry has accomplished
13 since each of these prior orders?

14 THE CLERK: Okay, Your Honor. I did not realize you
15 wanted them individually, but if you give me a moment, I
16 can --

17 THE COURT: Okay. All right. Sure. Yeah, let's
18 everybody be at ease for just a moment.

19 (Pause in the proceedings.)

20 THE CLERK: After Judge King's order, we only had two
21 filings before the next --

22 THE COURT: Okay.

23 THE CLERK: I'm sorry. That's not correct.

24 Okay, sir. We had -- yes, we actually had 15 filings
25 after Judge King's order before Judge Gibbons filed a new

1 order on December 5th, 2014.

2 THE COURT: Okay.

3 THE CLERK: And then the next order was November 5th of
4 2021.

5 THE COURT: Okay. In between Judge Gibbons' order and
6 Judge Griffith's first order, how many filings?

7 THE CLERK: We only -- we only have in the file two.

8 THE COURT: Two?

9 THE CLERK: However -- yes, sir. However, during that
10 time, the chief admin judge had told us any letters we
11 receive, not to open them and forward them to him. So, I have
12 no record of how many that was.

13 THE COURT: Okay.

14 THE CLERK: I would give you a guess but I have no idea.

15 THE COURT: Okay. Give me an estimate on how many
16 letters that you were instructed by Judge Gibbons to send to
17 him and not open.

18 THE CLERK: Okay. I would guess at least 20. Sometimes
19 we got two a day from Mr. Curry.

20 THE COURT: All right. And that would be between Judge
21 Gibbons' order and Judge Griffith's first order?

22 THE CLERK: Yes, sir.

23 THE COURT: Okay. All right.

24 THE CLERK: And then his next order -- Judge Griffith's
25 order was November 5th, and before his other order, there were

1 six more filings sent to us. But we were also instructed
2 basically the same thing there; that we were to forward all
3 the letters to Judge Griffith.

4 THE COURT: Okay. All right. So, after Judge Griffith's
5 first order of November 5, you're saying he had six filings.

6 THE CLERK: Yes, sir.

7 And then after, we were, you know, told by Judge Griffith
8 to send the filings to him.

9 THE COURT: Okay. And then after Judge Griffith's second
10 order...

11 THE CLERK: Judge -- let me see.

12 And then the next time an order was done was your order
13 here, the Rule to Show Cause.

14 THE COURT: Okay. All right. So, between Judge
15 Griffith's second order and the Rule to Show Cause, there
16 would have been at least one filing that I dealt with by way
17 of letter to Mr. Curry; correct?

18 THE CLERK: Yes, sir. But we had record of nine letters
19 in between that time.

20 THE COURT: In between Judge Griffith and my Rule to Show
21 Cause?

22 THE CLERK: Yes, sir.

23 THE COURT: Plus the motion to dismiss that I issued a
24 letter on?

25 THE CLERK: I believe I counted it -- I believe I

1 included it.

2 THE COURT: Okay. All right. Thank you, ma'am.

3 THE CLERK: Yes, sir.

4 THE COURT: All right. Mr. Frick, what would you like to
5 tell me on behalf of Mr. Curry?

6 MR. FRICK: Your Honor, first and foremost, Mr. Curry has
7 advised me that he doesn't necessarily need counsel, but he
8 will allow me to make a summation, and he's going to follow up
9 with whatever I don't touch on.

10 THE COURT: Okay. And let me just address that. After I
11 felt it necessary to issue this Rule to Show Cause, either
12 before or after the actual order was signed, I reached out to
13 Mr. Frick, who is Chief Public Defender for the Sixth Circuit,
14 who is an excellent attorney, and I just felt like he needed
15 to have some involvement in this just because of the potential
16 exposure, and that's why he's involved.

17 But I have no problem with you going on the record and
18 telling me whatever, and I'll be glad to hear from Mr. Curry.
19 Just please make sure that your client, Mr. Frick, understands
20 that I'm only dealing with contempt today. I'm not dealing
21 with anything else. Okay?

22 MR. FRICK: I understand. We have talked about that. I
23 know he does have something he wants to address, but I'm going
24 to touch on that before he gets to it ---

25 THE COURT: Okay.

1 MR. FRICK: --- so you're aware of what his issue is.

2 THE COURT: Okay.

3 MR. FRICK: Judge, I had an opportunity to speak with
4 Mr. Curry this morning. I then went down to the clerk's
5 office and reviewed the prior orders in this case. They all
6 go back, as you stated, to Judge King's order -- the initial
7 order in that case.

8 But, as I interpret it -- and I think the way Mr. Curry
9 is interpreting it -- is that only dealt with civil filings.
10 Since that time, he has not done any civil filings, not filed
11 any additional lawsuits, any civil matters on that. Any
12 issues that he has filed subsequent to that have been dealing
13 with issues that he thought were relevant to his criminal
14 case.

15 I know that there was an issue with a juror; he filed
16 some things on that. That's been disposed of. He is not
17 addressing that issue today.

18 What he is addressing is an issue about a photo lineup
19 and testimony to the Court -- occurred in court, and some -- I
20 would say some inconsistencies with what appears to be a date
21 of when this photo lineup occurs and when the warrant that
22 says he was arrested because of being picked out of a photo
23 lineup. They're ten days apart.

24 So, I understand his concern with that issue. The date
25 on the photo lineup is ten days after the issuing of a warrant

1 that says he was picked out of a photo lineup. That is the
2 filing that he is trying to get into court.

3 So, Judge, I would submit that he has not intended to
4 violate the order as he understood it. All the other orders
5 that have come forth, while they may have intended for
6 Mr. Curry not to file any additional items, that's not how --
7 because they all go back to Judge King's order, which
8 specifically said no civil filings, we feel that he's not in
9 contempt on that.

10 THE COURT: Okay. Let me just stop you just a second.
11 So, is it your or Mr. Curry's position that all of the
12 filings, whether it's actually court filings or letters after
13 Judge King's 2009 order, everything would be criminal/General
14 Sessions related and nothing civil?

15 MR. FRICK: Yes, sir. Yes, sir.

16 THE COURT: Everything since Judge King's order.

17 MR. FRICK: That is my understanding.

18 THE COURT: Okay.

19 MR. FRICK: And, of course, we would not conclude that a
20 letter would be a filing. I certainly understand that the
21 orders may have contemplated that, but that is not -- that is
22 not a clear interpretation of the orders as I have seen them.

23 Judge, and as far as the issue with this particular photo
24 lineup that is the current issue that he is trying to
25 litigate, as I read the statute, Section 24-27-300, you have

1 to -- three or more prior occasions make the filing.

2 So, in a strict construction of the statute, as I believe
3 this would -- like all criminal statutes would be strictly
4 construed against the State, he's only litigated -- attempted
5 to litigate this issue about the photo lineup one previous
6 time. So, this is the second attempt to do that.

7 It's my understanding that the letters that he has
8 written have been letters to the Clerk of Court to receive a
9 clocked-in copy of the filing that he has attempted to file.
10 So, we would surmise that he has not violated the order, as it
11 is not clearly stating that he cannot file any more criminal
12 actions. It simply says he cannot file civil actions, which
13 he has not done.

14 And he is trying to get a copy of this order because he's
15 got to have a clocked-in order -- a clocked-in copy of his --
16 of his motion so he can get it heard by the Court of Appeals.
17 That's all he's attempting to do is try and get it heard at
18 the next level to see if the case can be revisited, as I
19 understand it.

20 Is that --

21 (The defendant confers with Mr. Frick.)

22 MR. FRICK: Right. And, Your Honor, he does have a
23 letter from April of this year where the Clerk of Court is --
24 the Clerk of Court of the Court of Appeals is saying that he
25 should get -- a clerk from Court Administration is saying that

1 he should get a copy of whatever he's filed. And it is to
2 Ms. Carpenter, Clerk of Court.

3 (The defendant confers with Mr. Frick.)

4 MR. FRICK: And he subsequently received a letter that
5 says that they did not -- the Clerk of Court's office here in
6 Chester did not have that motion.

7 (The defendant confers with Mr. Frick.)

8 MR. FRICK: And then he hands me a letter -- the letter
9 from you from June of this year, Your Honor, stating that that
10 motion had been reviewed.

11 So, there's some confusion as to what happened with the
12 motion, but he would like to file it and he would like to get
13 the clocked copy so he can send it on to the Court of Appeals
14 and try to seek relief there.

15 But, Judge, to sum it all up, I suggest that the orders
16 have not been clear because, as you said, they mimic the
17 original order from Judge King that said he couldn't do the
18 subsequent civil filings. He's not done that. And the issue
19 that he's attempting to raise, he's only done one other time,
20 which, I submit, does not satisfy the statute that would hold
21 him in contempt.

22 THE COURT: I'm looking for something -- it seems like,
23 to me, after he received my letter when I said I did not have
24 jurisdiction to rule on his motion to dismiss charges that he
25 filed -- and of course that -- my letter saying that some of

1 the letters to the clerk's office were of a threatening
2 nature -- seems like, to me, is something that he sent
3 subsequent to that he addressed that statement, but I can't
4 find -- just have to look for it. Okay?

5 All right. Anything else, Mr. Frick?

6 (The defendant confers with Mr. Frick.)

7 MR. FRICK: Judge, he would like to address you at this
8 point.

9 THE COURT: Okay. And, again, all I want to hear is
10 anything directly related to contempt. I don't want to hear
11 anything else. Okay?

12 MR. FRICK: I think he wants to address you about that
13 particular motion that he is trying to get heard.

14 THE COURT: All right. The last motion he filed that I
15 responded to was a motion to dismiss his criminal charges.
16 Now, that's the last motion that he filed, and that's why I
17 responded by way of letter saying I did not have jurisdiction
18 to hear that.

19 MR. FRICK: That is the issue that he would like to
20 address, Your Honor.

21 THE COURT: Well, that's not -- that's not technically
22 related to the contempt. I mean, that filing is a part of the
23 overall contempt -- potential contempt action and sanctions,
24 but whether or not I'm going to hear that or make any rulings
25 on that, I'm not going to do it.

1 MR. FRICK: Okay.

2 THE DEFENDANT: Can you hear me? Can I speak?

3 THE COURT: If it's related to whether or not the Court
4 should hold you in contempt ---

5 THE DEFENDANT: Well --

6 THE COURT: --- then I'll be glad to hear you.

7 THE DEFENDANT: Well --

8 THE COURT: But that's all I'm going to hear today. I
9 need to have you sworn in.

10 Madam Clerk, would you swear Mr. James Curry in, please.

11 THE CLERK: Please raise your right hand and state your
12 full name.

13 THE DEFENDANT: My name is James Bernard Curry.

14 JAMES CURRY,

15 after having been duly sworn, was examined and testified
16 to as follows:

17 THE COURT: Yes, sir, Mr. Curry.

18 THE DEFENDANT: All right. I'm here today to show cause
19 why I should not be held in contempt. First of all, I asked
20 the Court not to hold me in contempt because this filing is
21 not a civil action. And like Mr. Frick said, that only
22 applies to South Carolina Code 24-27-300, and I am not
23 violated that because this is a General Sessions matter that
24 I'm trying to get heard into court.

25 And I had wrote this down. If you don't mind, I'd like

1 to put it on the record for the Court of Appeals, if you don't
2 mind.

3 THE COURT: Put what on the record?

4 THE DEFENDANT: Just what I'm getting ready to read right
5 now about --

6 THE COURT: If it's related to whether or not I should
7 hold you in contempt ---

8 THE DEFENDANT: All right.

9 THE COURT: --- I'll be glad to hear you. But if it goes
10 beyond that or outside of that --

11 THE DEFENDANT: It won't.

12 THE COURT: Don't talk over me.

13 THE DEFENDANT: All right.

14 THE COURT: But if it goes beyond that or outside whether
15 or not I should hold you in contempt, then I'm not going to
16 hear you. Okay? So, keep that in mind.

17 THE DEFENDANT: Okay. This is my filing in General
18 Sessions Court, Sixth Judicial Circuit, in reference to an
19 order and Rule to Show Cause. Defendant moves for relief
20 sought not contempt pursuant to South Carolina Code 24-27-300,
21 which only applies to civil actions, nor does Rule 29 of South
22 Carolina Rules of Civil Procedure apply in this matter.

23 In reference to order and Rule to Show Cause, Defendant
24 would hereby show cause why he cannot be held in contempt
25 legally pursuant to South Carolina Code 27 -- 24-27-300.

1 Also, Defendant would show proof there was no probable
2 cause for arrest warrants dated 6/5/07 and 6/7/07 which gives
3 the Sixth Judicial Circuit General Sessions jurisdiction
4 concerning this matter pursuant to subject matter
5 jurisdiction, which can be raised at any time. And that's
6 under South Carolina Department of Social Services vs. Ryan.

7 Thus, pursuant to lack of subject matter jurisdiction,
8 Defendant's arrest and conviction is utterly void. And that's
9 under Coon vs. Coon.

10 Also, Defendant raises the Rule 29 of the South Carolina
11 Rules of Criminal Procedure which states all post-trial
12 motions shall be made within ten days after the imposition of
13 the sentence in order for this Court to have jurisdiction.

14 Note: Rule 29 does not apply in this matter pursuant to
15 the lack of subject matter jurisdiction which can be raised at
16 any time in the Court of General Sessions.

17 And note: Defendant's filing in this matter is not
18 frivolous and is a collateral attack against nine convictions
19 filed in the Court of General Sessions and is a collateral
20 attack against my conviction.

21 Also, Your Honor, in no way is this action connected to
22 any civil lawsuit or PCR application where the IFA does not
23 apply to criminal matters filed by inmates challenging their
24 conviction but only to civil cases challenging prison
25 conditions; thus, ordered by our Supreme Court and the General

1 Assembly, that's under Wade. Therefore, any Court that
2 violates the South Carolina Code in 24-27-300, in reference to
3 one year additional prison time, is guilty of a crime of
4 unethical conduct, and if a Court intentionally violates South
5 Carolina Code 24-27-300 is guilty of misconduct.

6 And, also, Your Honor, I would just like to say that this
7 action that I have here is not a civil action but pursuant to
8 South Carolina Code in 24-27-300 only applies to civil action,
9 not collateral or criminal proceedings in the Court of General
10 Sessions in which an inmate challenges his conviction. That
11 was passed in 1996 by the South Carolina General Assembly,
12 called the Inmate Litigation Act.

13 Therefore, Defendant cannot be held in contempt or be
14 sentenced to additional prison time for its action filed in
15 the Chester County Court of General Sessions challenging his
16 criminal conviction because both United States and the South
17 Carolina Constitution require that individuals have access to
18 criminal courts to assert their constitutional rights without
19 fear of retribution from the courts.

20 So, I'd just like to say that, Your Honor, just to say I
21 have not violated this order from Judge King because it
22 specifically states I should not file anymore civil actions,
23 and I have not done that. And this action here today is --
24 the motion that you have before you is under subject matter
25 jurisdiction in which Mr. Frick just informed you that it's

1 dealing with a photo lineup in which the police chief -- I
2 think it was Mike Revels -- that has now been terminated for
3 misconduct in office, sent to the ---

4 What's it called on the indictment?

5 MR. FRICK: Grand jury.

6 THE DEFENDANT: Grand jury.

7 --- he took before the grand jury saying that the victim
8 in this case had identified me out of this photo lineup. So,
9 I have evidence here of the victim stating that he had never
10 seen that photo lineup. And the date on the photo lineup,
11 like she says, proceeds the date of the warrants. And I have
12 the warrants here that I would like to put into evidence,
13 because the Court of Appeals, they take very seriously looking
14 at cases involving whether the Court lacks subject matter
15 jurisdiction. They looks at that very seriously.

16 So, I would like to put these warrants and the photo
17 lineup into evidence in case your ruling come out not to be
18 satisfactory to me, and I can let the Court of Appeals look at
19 it and make the final decision.

20 THE COURT: I'll let you file whatever you want to file.
21 I just -- I find it interesting, in response to your argument,
22 that Judge King's order -- that all the subsequent orders
23 after Judge King's order dealt with civil matters. That's not
24 the case. I'm just looking -- as an example, Judge Gibbons'
25 2014 order, it was specifically in response to a motion for

1 new trial that you filed based upon after discovered evidence.
2 He determined that to be a frivolous filing; therefore, any
3 further frivolous filings would be -- hold you in contempt.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: That has nothing to do with Judge King's
6 order with respect to civil filings. So, you can file
7 whatever you want to file. I'm going to take this advisement,
8 Mr. Curry. I'm going to issue a very detailed order. Whether
9 I hold you in contempt or not, I will issue a very detailed
10 order.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you'll be served with the order once it
13 is ---

14 THE DEFENDANT: Yes, sir.

15 THE COURT: --- is issued.

16 And let me just ask Clerk Lawson: They maintain that all
17 filings -- the letters, actual filings, whatever -- since
18 Judge King's order were all related to General Sessions and
19 not civil? Would that -- would you go along with what they
20 have indicated?

21 THE CLERK: Yes, sir. The letters that I have discussed
22 were only for General Sessions.

23 THE COURT: Okay. All right. Very good. Thank you.

24 THE DEFENDANT: And also, Your Honor ---

25 THE COURT: Yes, sir.

1 THE DEFENDANT: --- the letters that I sent, they was
2 only asking for clocked copies of the motion that I was filing
3 in the matter. That's all I was asking for, was the clocked
4 copies.

5 THE COURT: Okay. All right. The motion that you filed
6 that I responded to by way of letter?

7 THE DEFENDANT: Uh-huh. That's all I was asking for, a
8 copy.

9 THE COURT: And you need a copy of it.

10 THE DEFENDANT: And I still hadn't received it.

11 THE COURT: All right. I'll -- before you leave, I'll
12 ask the clerk's office -- I probably have a copy in my file,
13 but they can put their hands on it. It's the motion to
14 dismiss his criminal charges that prompted my letter of
15 June 13th.

16 Can you make him a copy before he leaves, Madam Clerk?

17 THE CLERK: I will certainly --

18 THE DEFENDANT: May I state what warrants I want put on
19 the record, what I want to ask for exhibits, please?

20 THE COURT: Well, I mean, if they're going to be part of
21 the record, I don't think you necessarily need to identify
22 them.

23 THE DEFENDANT: For the Court of Appeals? I want to put
24 it on the record for the Court of Appeals so that it will be
25 on the transcript when they read it, if you don't mind.

1 MR. FRICK: And, Judge, I'm going to ask that we mark
2 those Court exhibits. I'm going to make a copy of them so he
3 still got his copies.

4 THE DEFENDANT: With the photo lineup.

5 MR. FRICK: Yes, sir. There you go.

6 THE COURT: Mr. Curry, let me explain to you: What
7 you're filing right there, I'm going to allow it to be filed,
8 but that's not going to help me at all in my decision ---

9 THE DEFENDANT: Not with your decision. I'm not ---

10 THE COURT: --- as to whether or not you're in contempt.

11 THE DEFENDANT: --- worried about your decision, Your
12 Honor. I'm talking about for the Court of Appeals to look at
13 subject matter jurisdiction. That's what I was talking about.
14 And I wanted to get on the record to get your ruling on the
15 civil matter aspect of this case, because like you said, Judge
16 Gibbons didn't hold me in contempt because it wasn't a civil
17 issue. He tried to take work credits, but I never received
18 work credits, and the Court of Appeals informed me that he
19 wouldn't be able to take work credits had I was trying to get
20 work credits because of Section 24-27-300 because it don't
21 apply to only -- to civil actions, not criminal.

22 THE COURT: All right. You can file whatever you want to
23 file. Mr. Frick's going to make you a copy. Clerk Lawson is
24 going to make a copy of that one motion for you, and then I
25 will take this under advisement, and I'll issue an order. At

1 the appropriate time, you will be served with the order
2 whenever it's been filed.

3 THE DEFENDANT: And, also, Your Honor, I'd just to say
4 that all this negative that I'm putting forth on the record,
5 it's because of Chief Mike Revels that was fired for
6 misconduct in office by the Chief of Police in Great Falls,
7 for the Court of Appeals to take under advisement. And I want
8 copies of all of it.

9 THE COURT: All right. This hearing is adjourned. Thank
10 you very much.

11 (The above matter concluded at 2:38 p.m.)

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CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: State v. James Curry

2007-GS-12-00532

DATE OF HEARING: 11/21/24

COURT REPORTER/MONITOR: DCRP

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR and Certified Transcriber

Date Prepared: 12/23/24

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the charges of Burglary First Degree, Kidnapping, Armed Robbery, and Assault and Battery. He was sentenced to concurrent terms of 25 years on the first three charges and 10 years on the Assault and Battery charge. His appeal to the South Carolina Court of Appeals was denied. In addition, the Defendant has filed multiple Post-Conviction Relief cases and all have been denied and dismissed.

The Court will provide a summary of the various Orders that have been issued by the Court which are the basis for this contempt action.

On December 17, 2009, Judge Howard King issued an Order in the case of James B. Curry vs. Former Chief Mike Revels and Town of Great Falls, 09-CP-12-00836. Judge King noted in his Order that subsequent to the Defendant's conviction, the Defendant had filed four lawsuits (not including the present action) all being dismissed for failing to comply with the Rules. All of the lawsuits stem from the Defendant's conviction. Judge King further found that the Defendant's demands on the Clerk's Office were overbearing and the Defendant's file in the Clerk's office was voluminous. Judge King went on and found that "it was impossible to summarize the many spurious documents and demands sent to the Clerk. Judge King continued and stated, "However, when frivolous, non-

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CLERK OF COURT
SOUTH CAROLINA

legitimate lawsuits are filed, or excessive and unreasonable demands are made on administrative personnel, access to justice by those citizens having legitimate matters is hampered. The Court simply cannot tolerate numerous unreasonable and frivolous demands being made on the court and its personnel, thereby limiting recourses (sp) that are necessary for the proper business of the court.” Finally Judge King relied on Section 24-27-300 which provides for a one year consecutive contempt sentence for further frivolous civil action filings. Judge King did not hold the Defendant in contempt but he placed Defendant on notice of the same.

Next proceeding was with Judge Brian Gibbons wherein he issued an Order on December 4, 2014. The Court noted several things in his Order:

1. That Judge King's Order clearly put the Defendant on notice as to the consequences of future frivolous filings or unreasonable demands on the Clerk;
2. That the matter before the Court was the Defendant's fourth Motion for New Trial based on after-discovered evidence and the Court found it had

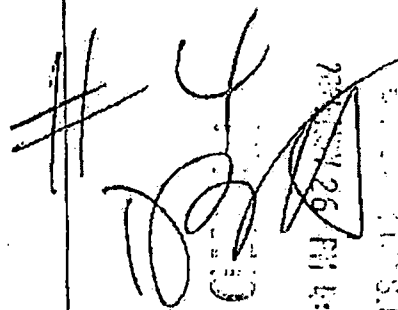
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J.S.C.

no merit;

3. "Since Judge King's order, the Defendant has continued to inundate the Chester County Clerk's office with voluminous letters, motions, filings and other demands."
4. That the Defendant may be held in contempt pursuant to Section 24-27-300 if any documents filed are found to be frivolous by the Chief Administrative Judge.

The next proceeding was before Judge Eugene Griffith wherein the Defendant filed his fifth Motion for New Trial based on after-discovered evidence. Judge Griffith denied the Motion as it did not have any merit and he issued Orders on November 5, 2021 and December 10, 2021.

The next proceeding came before this Judge. The Defendant filed a Motion to Dismiss his charges that he was convicted on on June 7, 2024. The Court issued a Letter to Defendant on June 13, 2024 telling the Defendant that it did not have jurisdiction to hear his Motion and would not hold a hearing on the same. The Court further admonished the Defendant not to respond to the letter to the Court


 CLERK OF COURT
 CHESTER COUNTY, S.C.
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or Clerk's Office. Notwithstanding, the Defendant responded to the letter demanding a formal Order.

Deputy Clerk Lawson testified that the following number of filings, letters, and documents have been filed with her office:

1. Since Judge King's Order: 15
2. Since Judge Gibbons' Order: 22
3. Since Judge Griffith's November Order: 6
4. Since Judge Griffith's December Order: 10

She also indicated that all of the above were related to his conviction. The Defendant concurred in this.

The Defendant argues that since Judge King's Order only dealt with the civil matters and the subsequent Orders stemmed from that Order then he could not be held in contempt since all filings after Judge King's Order were criminal based upon his conviction. This argument is without merit for several reasons:

1. Judge Gibbons and Judge Griffith dealt with criminal Motions and Judge King dealt with civil matters;
2. That each Order stood on its own notwithstanding the fact that Judge

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Gibbons referred to Judge King's Order and Judge Griffith referred to Judge Gibbons' Order;

3. The basis for all of the Orders was due to the Defendant's frivolous, meritless, overly burdensome and redundant filings and correspondence.

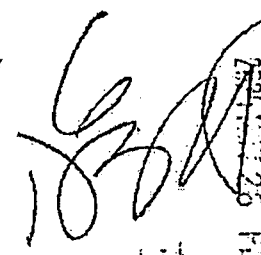
4. The Defendant since Judge King's Order has mailed something to the Clerk's Office 53 times and what has that got him—nothing. He has failed miserably every time. What it has done is it has created so much unnecessary work on the Clerk's office.

It is abundantly clear to this Court that the Defendant has willfully violated the aforementioned Orders of Judge King and Judge Gibbons and should be held in contempt. The Rule to Show cause indicated a criminal contempt citation but this Court will convert it to a civil contempt citation. Even though the Court would be justified in finding Mr. Curry in contempt for his 28 filings (exclusive of 15 times after Judge King's Order), the Court will decrease it to 3 times.

Consequently, it is

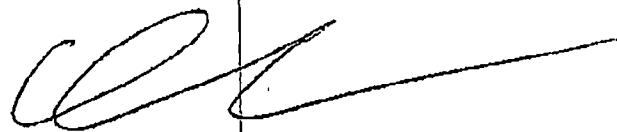
HEREBY ORDERED THAT:

1. The Defendant is found to be in willful civil contempt and shall be


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 COURT

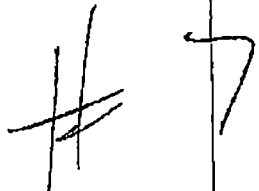
Incarcerated at SCDC for three (3) consecutive five (5) month sentences and all three (3) shall run consecutive to his current sentence at SCDC, however, the Defendant can purge himself of this contempt citation by the following: From the date of this Order forward he shall have no contact with the Chester Clerk of Court's office either verbally or in writing which includes letters, Motions, lawsuits or any other material in writing except as made by a S.C. licensed attorney on the Defendant's behalf. This same contempt finding and citation shall also apply upon the Defendant's release from incarceration from SCDC on his current sentence if the Defendant were to make contact with the Chester County Clerk's office as stated above. Simply stated, the Defendant will not have to serve a contempt sentence at any point in time if he refrains from making any contact with the Clerk's office. If he makes contact then the Contempt sentence goes into effect.

SO ORDERED.



DONALD B. HOCKER
 CHIEF ADMINISTRATIVE JUDGE FOR GENERAL
 SESSIONS—6TH JUDICIAL CIRCUIT

Laurens, SC
 Date: 11-26-24



COUNTY CLERK
 CHESTER COUNTY
 2024 NOV 26 PM 4:19

WITNESSES

1 Revels (GFPD)

11 ⁶⁷ ~~0~~mashtor

DOCKET NO. 2007-GS-12-529

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

JULY TERM 2007

ARREST WARRANT NUMBER/DOA

1305662 (DOA-6-6-07)

ACTION OF GRAND JURY

TRUEBILL

Veronica M. Eggen
eperson of Grand Jury

si: 7-24-07

VERDICT

James B. Curry

THE STATE
vs.

Indictment for

Burglary, First Degree

SC Code: §16-11-311(A)(1)(a)

CDR Code: 0079

Class: Felony, EXM

eperson of Petit Jury

e:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)


INDICTMENT

At a Court of General Sessions, convened on July 24, 2007, the Grand Jurors of Chester County present upon their oath:

BURGLARY, FIRST DEGREE

That James B. Curry did in Chester County on or about June 4, 2007, enter the dwelling of John C. Broom without consent and with intent to commit a crime in the dwelling and while effecting entry or while in the dwelling or in immediate flight from the dwelling, he or another participant in the crime was armed with a deadly weapon or explosive, to wit: 12 inch screwdriver, in violation of §16-11-311(A)(1)(a), *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Douglas A. Barfield, Jr., SOLICITOR

WITNESSES

J.M. Revels (GFPP)

K. TOMASHOT

DOCKET NO. 2007-GS-12-530

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

JULY TERM 2007

ARREST WARRANT NUMBER DOA

1305660 (DOA-6-6-07)

THE STATE

vs.

James B. Curry

ACTION OF GRAND JURY

TRUEBILL

Arvida M. Curry
Foreperson of Grand Jury
7-24-07

VERDICT

Indictment for
Armed Robbery

Foreperson of Petit Jury
Date:

SC Code: §16-11-0330(A)
CDR Code: 0139
Class: Felony, A

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTER)

INDICTMENT

At a Court of General Sessions, convened on July 24, 2007, the Grand Jurors of Chester County present upon their oath:

ARMED ROBBERY

That James B. Curry did in Chester County on or about June 4, 2007, while armed with a deadly weapon, to wit: screwdriver feloniously take and carry away from the person or presence of J.C. Broom by means of force, threats or intimidation goods or money of J.C. Broom such goods or monies being described as follows: \$2,000 cash and wallett, with the intent to deprive the owner permanently of such property, in violation of § 16-11-0330(A), *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



 Douglas A. Barfield., Jr., SOLICITOR

WITNESSES

J.M. Revels (GFPD)

A. TOMASNOT

DOCKET NO. 2007-GS-12-531

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

JULY TERM 2007

ARREST WARRANT NUMBER/DOA

1305663 (DOA-6-6-07)

THE STATE

VS.

James B. Curry

ACTION OF GRAND JURY

TRUEBILL

Maude M. Eggen
Foreperson of Grand Jury
Date: 7-24-07

VERDICT

Indictment for

Kidnapping

Foreperson of Petit Jury
Date:

SC Code: § 16-3-910
CDR Code: 0095
Class: Felony, A

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)


INDICTMENT

At a Court of General Sessions, convened on July 24, 2007, the Grand Jurors of Chester County present upon their oath:

KIDNAPPING

That James B. Curry did in Chester County on or about June 4, 2007, by any means whatsoever unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away another person, the victim, John C. Broom without authority of law in violation of § 16-3-910, *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Douglas A. Barfield, Jr., SOLICITOR

WITNESSES

J.M. Revels (GFPPD)

3 A. Tomasiak

DOCKET NO. 2007-GS-12-532

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

JULY TERM 2007

ARREST WARRANT NUMBER/DOA

1305665 (DOA-6-6-07)

THE STATE

vs.

James B. Curry

ACTION OF GRAND JURY

TRUEBILL

Arnela M. Epps

Foreperson of Grand Jury
Date: 7-24-07

VERDICT

Indictment for

Assault and Battery of a High and
Aggravated Nature

SC Code: §17-25-0030

CDR Code: 0013

Class: Misdemeanor, UNC

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

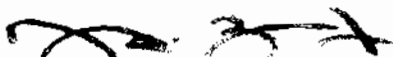
INDICTMENT

At a Court of General Sessions, convened on July 24, 2007, the Grand Jurors of Chester County present upon their oath:

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

That James B. Curry did in Chester County on or about June 4, 2007, commit an assault and battery upon the victim, J.C. Broom, constituting an unlawful act of violent injury to the person of the victim accompanied by circumstances of aggravation, to wit: did throw him to floor on 3 separate occasions and threatened to kill him with screwdriver.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Douglas A. Barfield, Jr., SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

INDICTMENT/CASE#: 07-GS-12-529
A/W#: L 305662
Date of Offense: 6-11-07
S.C. Code §: 16-11-311 (a) (1) (2)
CDR Code #: 0079

James T. Curran
Race: [redacted] Sex: M
DOB: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
DL# _____ SID# _____

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Reinglass 1st Degree

in violation of § 16-11-311(a)(1)(2) of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term 25 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

set by SCDPPPS _____

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>3.75</u>
TOTAL	\$ <u>128.75</u>

Obtain GED
Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

Paul Carpenter
Clerk of Court/Deputy Clerk
Court Reporter: Mike Walkers

PRESIDING JUDGE
Judge Code: _____
Sentence Date: February 14, 2008

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE _____ VS. _____

INDICTMENT/CASE#: 07 -GS- 12 - 530

AKA: _____
Sex: M SS#: 28

AW#: I 705660

DL# _____ SID# _____

Date of Offense: 6-4-07

S.C. Code §: 16-11-330 (a)

CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Arnold Robbins

in violation of § 16-11-330 (a) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, _____ (Defendant initial)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

set by SCDPPPS _____

Recipient:	
*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§35.13 (Public Def/Prob)	\$500 \$
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$
§50-21-114(BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 3.75
TOTAL	\$ 628.75

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk
Court Reporter: Mike Walker

PRESIDING JUDGE _____
Judge Code: _____
Sentence Date: February 14, 2008

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Chester
STATE _____ VS _____

INDICTMENT/CASE#: 07 -GS- 12 - 531

AKA: James D. Conroy

AW#: F 305663

Date of Offense: 6-4-07

S.C. Code §: 16-3-910

CDR Code #: 0095

City, State, Zip: _____
DL# _____ SID# _____

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Kidnapping
in violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0095

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, _____ (Defendant initial)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: _____
Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term 25 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

set by SCDPPPS _____

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>3.75</u>
TOTAL	\$ <u>128.75</u>

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

David Carpenter
Clerk of Court/ Deputy Clerk
Court Reporter: Mike Watkins

PRESIDING JUDGE [Signature]
Judge Code: 11319
Sentence Date: February 14, 2008

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE _____ VS. _____

INDICTMENT/CASE#: 07-GS-12-532

AKA: JAMES B. CURRY

A/W#: L 305-665

Sex: _____

Date of Offense: 6-4-07

DL# _____ SID# _____

S.C. Code §: 17-25-30

CDR Code #: 0013

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: ARRAIGN

in violation of §17-25-30 of the S.C. Code of Laws, bearing CDR Code # 0013

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS (CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

set by SCDPPPS _____

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>700.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
§50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>3.25</u>
TOTAL	\$ <u>128.25</u>

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

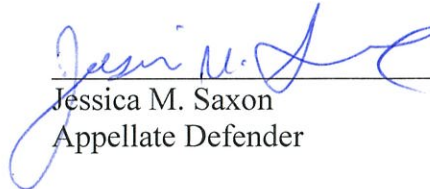
Leed Carpenter
Clerk of Court/ Deputy Clerk
Court Reporter: Nike Walker

PRESIDING JUDGE [Signature]
Judge Code: _____
Sentence Date: February 14, 2008

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 27th day of October, 2025.

RECEIVED

Oct 27 2025

SC Court of Appeals