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SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

CASE FILE: 18616-1

PLAINTIFF

INDICTMENT(S): 2003-GS-22-01030, 1031

WARRANT(S): H248669, H248670

vs.

JODY LYNN WARD

ORDER DENYING DEFENDANT'S
MOTION FOR NEW TRIAL

DEFENDANT

FILED
GEORGETOWN COUNTY, S.C.
2025 JUL 15 PM 12:10
ALMA Y. WHITE
CLERK OF COURT

This matter is before the Court on Defendant Jody Lynn Ward's Motion for New Trial filed on October 4, 2024, and subsequent amendments filed on October 9, 2024; October 18, 2024; and February 24, 2025. The State filed a written response on May 1, 2025, objecting to the relief requested. After reviewing the motion, amendments, attachments, applicable law, the record in this matter, and hearing from all parties, this Court finds that Defendant's application is barred as it satisfies neither the requirements for after-discovered evidence under Rule 29(b) of the South Carolina Rules of Criminal Procedure nor controlling case law.

Accordingly, the Defendant's Motion for a New Trial, along with all amendments thereto, is **DENIED.**

I. PROCEDURAL HISTORY

Defendant was convicted by a Georgetown County jury on March 18, 2004, for two counts of Murder on Indictments 2003-GS-22-01030 and 2003-GS-22-01031. He was sentenced by the Honorable Paula Thomas to two concurrent terms of life in prison. The Defendant has since filed numerous post-trial motions and collateral actions as well as appeals from those motions and actions,

which include, but are not limited to, Defendant's assigned Assistant Appellate Defender filing an *Anders* brief on August 29, 2005, and the Defendant then filing two *pro se* supplemental briefs on October 12, 2005, raising numerous issues, including Scott McKenzie's service as foreperson of the grand jury. Subsequent motions for a new trial were also filed by the Defendant in 2012 and 2014.

On October 4, 2024—more than twenty years after his conviction—the Defendant filed the instant Motion for New Trial, raising multiple issues, including an attempt to relitigate the issue of Mr. Scott McKenzie's service as the foreman of the grand jury. The Defendant then filed amendments on October 9, 2024; October 18, 2024; and February 24, 2025. The State filed a written response, arguing that the Defendant's claims do not meet the standard for after-discovered evidence and that the motion should be dismissed without a hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Under Rule 29(b) of the South Carolina Rules of Criminal Procedure, a motion for a new trial based on after-discovered evidence must be made within a reasonable time after the discovery of the evidence. To warrant a new trial, the Defendant must demonstrate that the evidence: "(1) would probably change the result if a new trial were granted; (2) has been discovered since the trial; (3) could not have been discovered prior to trial through the exercise of due diligence; (4) is material to the issue; **and** (5) is not merely cumulative or impeaching." *State v. Spann*, 334 S.C. 618, 619-620, 513 S.E.2d 98, 99 (1999) (citing *State v. Prince*, 316 S.C. 57, 447 S.E.2d 177 (1993)). The granting of a new trial on such grounds is not favored and rests within the sound discretion of the trial court. *Id.*; *See also State v. Irvin*, 270 S.C. 539, 545, 243 S.E.2d 195, 197-198 (1978). Failure to satisfy any one of these requirements is fatal to the motion. The Defendant raises several legally insufficient arguments in support of his motion for new trial. Each claim is addressed in turn.



A) Missing Great Seal Argument

Defendant first argues that certain legislative acts from 1993 and 1995 are void because they do not bear the Great Seal of South Carolina and that, as a result, S.C. Code Ann. §16-3-10 is invalid. The 1993 Act submitted by Defendant does not reference §16-3-10, and no Act from 1995 has been provided. Thus, this argument does not advance Defendant's quest for a new trial. Even assuming, arguendo, that the referenced acts referenced §16-3-10 and lacked the Great Seal, such would not render § 16-3-10 void, nor would it affect the outcome of Defendant's trial.

While Article III, § 18 of the South Carolina Constitution states that no bill or joint resolution shall have the force of law until the Great Seal of the State is affixed, the South Carolina Supreme Court has held that substantial, not literal, compliance with constitutional provisions is sufficient to validate legislation. *See Smith v. Jennings*, 67 S.C. 324, 45 S.E. 821 (1903). Further, proper codification of an act will cure a constitutional defect and is part of the general statutory law of the state. *See S.C. Tax Comm'n v. York Elec. Co Op., Inc.*, 275 S.C. 326, 270 S.E.2d 626 (1980). Section 16-3-10 was codified prior to Defendant's trial and, thus, any constitutional defect was cured.

Additionally, this alleged defect was publicly available well before the Defendant's trial and could have been discovered through the exercise of reasonable diligence. Moreover, the absence of the Great Seal—assuming it occurred—is not a material defect and bears no relation to the statute under which Defendant was indicted and convicted.

This Court hereby finds that Defendant's argument concerning the Great Seal lacks merit and fails to satisfy any of the five requisite elements for relief under Rule 29(b). The statute under which Defendant was indicted and convicted was properly codified and substantially complied with the relevant constitutional requirements. Any purported constitutional defect was cured upon the statute's codification and this claim does not support the granting of a new trial. Accordingly, no relief is warranted.

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B) Allegations Regarding Grand Jury Foreperson and Indictment Validity

The Defendant next contends that the grand jury foreperson, Scott McKenzie, was either not properly empaneled or had a conflict of interest based on alleged prior contact with the Defendant. This matter was previously raised and rejected on direct appeal and is, therefore, clearly not newly discovered evidence. Further, the grand jury's role is limited to determining probable cause to issue an indictment and does not affect the validity of the subsequent jury trial or verdict. There is no evidence, indeed there is not even an allegation, that McKenzie served on the petit jury or that his involvement prejudiced the Defendant's constitutional rights.

This Court hereby finds that these allegations do not satisfy the five required elements of after-discovered evidence under Rule 29(b). The allegations are speculative, immaterial, and insufficient to meet the standard for a new trial. Accordingly, no relief is warranted.

C) Allegations of Actual Innocence and Evidentiary Misconduct

This argument seems to center around two issues – one relating to the defendant's trial attorneys and one to the State. The defendant first alleges that his trial attorneys, Margaret Ann Kneece and J. Wesley Locklair "gathered bones and bullet, shells¹" sometime in November 2003. This claim is wholly uncorroborated; the defendant offers only the word of his brother. The defendant makes no argument that these items would change the result of his trial. Indeed, there is no assertion that these alleged bones and bullets have any relevance to the defendant's case, whatsoever.

Defendant must allege, not only that this evidence was discovered after his trial, *but also* that it could not have been discovered before trial, even with the exercise of due diligence. It is unreasonable to believe, however, that the defendant could not have discovered this prior to his

¹ Affidavit of Jamie Ward.

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trial. Neither the defendant nor his brother claims that there was some breakdown in their relationship that prevented his brother from sharing this information earlier. In fact, the defendant attached a letter dated October 12, 2002, from the Department of Corrections indicating that he and his brother were allowed to communicate with each other. This approval was spurred by a request from the very brother who the defendant now claims withheld this information from him. Notably, in his attached affidavit, Jamie Ward does not explain why he withheld this information from Defendant².

Further, there is no evidence that this “evidence” would be material as there is no assertion that the bones were human bones, that they were in the area where the defendant initially buried the victims, or where he buried them the second time. There is no assertion that the bullet/shells have any connection to this case – no information as to where, specifically, they were found or what caliber they were. Because there is absolutely no evidence of their relevance, it is impossible to determine whether they were merely cumulative or impeaching. This “after-discovered evidence” does not meet the requirements for the grant of a new trial.

The statement by Rhonda Haithcock likewise is insufficient to warrant the grant of a new trial. Defendant attached a “statement” purporting to be from Haithcock, but it was written in the third-person by an unknown individual. The “statement” is not notarized, nor is it signed by *anyone*, much less Haithcock.

In any event, this information is not such that it would change the result of the trial. The defendant, himself, attempted to cast blame on Elliott in his statement to (then) Assistant Sheriff Weaver. This statement was played to the jury, which clearly rejected this fabrication in light of the overwhelming evidence of Defendant’s guilt, including his confession to Denise Cox, his

² If James Ward were to testify at any hearing or trial, the State would seek to impeach him based on his criminal record, which spans nearly 30 years with approximately 30 convictions.

statements to others that he had gotten rid of the victims, and that Defendant alone, by his own admission, moved the bones to their final resting place. Haithcock's uncorroborated statement would not change Defendant's guilt and cannot serve as the basis for a new trial.

This Court hereby finds that these allegations do not satisfy the five required elements of after-discovered evidence under Rule 29(b). They are not new, are not material, could have been discovered earlier with reasonable diligence, and would not likely have changed the result of the trial. Accordingly, no relief is warranted.

D) October 9, 2024, Amendment: Renewed Challenge to Suppressed Statement

In the amendment filed on October 9, 2024, the Defendant challenges the admissibility of a statement he made to Assistant Sheriff Weaver. However, the admissibility of this statement has already been litigated at a pretrial suppression hearing and addressed during trial. *Trial Transcript*, pp. 86-125.

This Court hereby finds that this issue does not constitute after-discovered evidence and does not satisfy any of the five required elements for relief under Rule 29(b), including the requirement that the evidence be newly discovered and likely to change the outcome of the trial. Accordingly, no relief is warranted.

E) October 18, 2024, Amendment: Allegation of Perjury by Dr. Kimberly Collins

In the amendment dated October 18, 2024, the Defendant alleges that Dr. Kimberly Collins, a forensic pathologist from the Medical University of South Carolina who testified at trial, committed perjury. However, the Defendant does not identify any specific false statement or present any evidence substantiating this allegation. He also does not indicate when or how the alleged misconduct was discovered or explain why it could not have been discovered earlier through the exercise of reasonable diligence.

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This Court hereby finds that the Defendant's allegation is vague, conclusory, unsupported by the record, and does not meet any of the five required elements for after-discovered evidence under Rule 29(b). Accordingly, no relief is warranted.

F) February 24, 2025, Amendment: Alleged Conflict of Interest of Trial Counsel

In the amendment filed on February 24, 2025, the Defendant alleges that one of his trial attorneys, Margaret Ann Kneece, had a conflict of interest due to her purported involvement with the Georgetown County Sheriff's Office in efforts to establish a domestic violence shelter. Specifically, he alleges that Kneece and the Georgetown County Sheriff's Office jointly opened a shelter for abused or battered women sometime between December 2003 and February 2004. Given that the defendant's trial took place in March 2004, this allegation fails on its face to qualify as after-discovered evidence as it could certainly have been discovered before trial if the defendant acted with due diligence.

Defendant presented no evidence or explanation as to how this alleged conflict of interest adversely affected his legal representation. Moreover, the Defendant has not demonstrated that the information is newly discovered, material, or likely to produce a different result at trial.

This Court hereby finds that Defendant's claim does not satisfy any of the required elements for after-discovered evidence under Rule 29(b). Accordingly, Defendant is not entitled to relief.

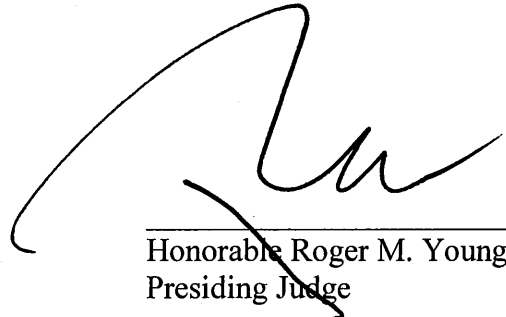
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III. CONCLUSION

Having carefully reviewed Defendant's filings, the applicable law, the entire record, and hearing from all parties, this Court finds that none of Defendant's claims satisfy the five-part test for after-discovered evidence set forth in Rule 29(b) and South Carolina precedent. No evidentiary hearing is warranted and Defendant is not entitled to relief.

Therefore, it is hereby **ORDERED** that Defendant's Motion for New Trial, along with all amendments thereto, is **DENIED**.

IT IS SO ORDERED.



Honorable Roger M. Young, Sr.
Presiding Judge

Chambers, South Carolina
Dated: 7/21/25