

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Sidney Fields, #24592,

Plaintiff,

vs.

The State of South Carolina,

Defendant.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

2014-CP-10-0305

ORDER

RECEIVED

OCT 08 2014

SC Court of Appeals

FILED
2014 JUN 11 PM 2:38
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before this Court by way of a Petition for Writ of Mandamus filed by Mr. Fields and a Defendant's Motion to Dismiss by the State of South Carolina. These matters were heard by me on May 23, 2014, in the Court of Common Pleas for the Ninth Judicial Circuit in Charleston, South Carolina.

BACKGROUND

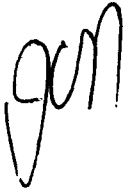
Mr. Fields has gone through a succession of actions for post judgment relief subsequent to entering pleas of guilty to murder and armed robbery on November 16, 1998. Mr. Fields was sentenced to confinement for life for the murder and for thirty (30) years for the armed robbery.

Mr. Fields filed a document titled "Application for (State) Habeas Corpus Pursuant to S.C. Code Ann. Section 17-17-10" (the "2007 Application") on August 31, 2007. In the brief attached to the 2007 Application, Mr. Fields asserts as his argument that "Petitioner was denied Due Process when (PCR) counsel's error denied Petitioner a sufficient and preserved evidentiary record for appellate review." Judge Roger M. Young entered his order filed June 25, 2008, wherein Judge Young ordered that "this matter [the 2007 Application] is transferred to the civil

roster as a Petition for Habeas Corpus, a Pro Se hearing will be set at the next available term, and Lisa A. Reynolds, Esquire is relieved as counsel for the plaintiff in this matter.”

Judge R. Markley Dennis, Jr. held an evidentiary hearing on November 3, 2008. Judge Dennis found in his Order of Dismissal filed November 26, 2008, that the 2007 Application “is the Applicant’s third PCR application and is thus a successive application.” Judge Dennis granted the State’s motion to dismiss and found that the application must be denied and dismissed with prejudice.

LaNelle Cantey DuRant, Appellate Defender, served a Johnson Petition for Writ of Certiorari on June 24, 2009, to the South Carolina Supreme Court. The issue presented in the petition is:



Did the PCR court err in not hearing petitioner’s PCR issue that he was denied due process of law when he was not able to have a fair and complete appellate review of his case because his first PCR attorney failed to file a rule 59(e) motion based on the deficiencies of the first PCR transcript.

The South Carolina Court of Appeals issued its order dated November 5, 2010, wherein it ruled that “After careful consideration of the entire record as required by Johnson v. State, 294 S.C. 310, 364 S.E. 2d 201 (1998), we deny the petition and grant counsel’s request to withdraw.”

CONCLUSIONS OF LAW

Mr. Fields has moved for a writ of mandamus ordering the circuit court to hold a habeas corpus hearing. The State of South Carolina opposed the motion for the writ of mandamus.

Mandamus is the highest judicial writ and is issued to compel a public official to perform a ministerial duty, not a discretionary duty, and only when there is a specific right to be enforced, a positive duty to be performed, and no other available legal remedy. Miller v. State, 377 S.C. 99, 101, 659 S.E.2d 492, 493 (2008). “A writ of mandamus is a coercive writ that orders a public official to perform a ministerial duty. Mandamus will issue only to compel a public official to

perform a mandatory legal duty. City of Rock Hill v. Thompson, 349 S.C. 197, 200, 563 S.E.2d 101, 102 (2002) (internal citations omitted). “To obtain a writ of mandamus requiring the performance of an act, the applicant must show 1) a duty of respondent to perform the act, 2) the ministerial nature of the act, 3) the applicant’s specific legal right for which discharge of the duty is necessary, and 4) a lack of any other legal remedy” Holden v. Crib, 349 S.C. 132, 136, 561 S.E.2d 634, 636-7 (Ct. App. 2002), quoting Redmond v. Lexington County Sch. Dist. No. Four, 314 S.C. 431, 437, 445 S.E. 2d 441, 445 (1994).

Under the facts of this matter, Mr. Fields has no “specific legal right for which discharge of the duty [to hold a habeas proceeding in the trial court] is necessary.” Mr. Fields is procedurally barred from petitioning the circuit court for a writ habeas corpus. “A person is procedurally barred from petitioning the circuit court for a writ of habeas corpus where the matter alleged is one which could have been raised in PCR application.” Keeler v. Mauney, 330 S.C. 568, 571, 500 S.E.2d 123, 124 (Ct. App. 1998). “Furthermore, if a person is procedurally barred, his only means of obtaining state habeas corpus relief is to file a petition in the original jurisdiction of the Supreme Court.” *Id.* Judge Dennis denied Mr. Field’s petition. The specific issue with regard to the record was raised by Petition for *Writ of Certiorari* which was denied by the South Carolina Court of Appeals on November 5, 2010.

In his Application for Post-Conviction Relief filed May 11, 2006, Mr. Fields stated the following in Paragraph 19 that requires the applicant to state clearly their relief sought:

A [sic] EVIDENTIARY HEARING TO ADJUDICATE THE SPECIFIC FACTS THAT SUPPORTS [sic] APPLICANT’S INEFFECTIVENESS OF COUNSEL CLAIM / NOT ONLY WAS [sic] THE FACTS NOT ADJUDICATED UPON, THE FACTS WAS [sic] OMITTED FROM THE TRANSCRIPT OF RECORD.

Judge Jefferson dismissed this application on June 27, 2006, by Conditional Order of Dismissal and by Final Order dated August 23, 2006.

As an additional ground, habeas relief is not appropriate where a grant of the relief would not entitle the applicant to release from prison. "It is not necessary for the Court to decide this question as a decision in Appellant's favor would not entitle him to his release from the State Penitentiary, where he is serving a life sentence imposed upon him in 1961. The writ of habeas corpus is therefore not available to him," Bowers v. State, 241 S.C. 282, 284 127 S.E.2d 881, 882 (1962).

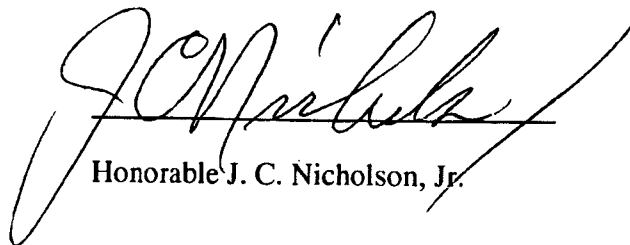
Mr. Fields has raised the issue with regard to the transcript of record in previous applications for post-conviction relief, regardless of how delineated, the issue has been raised and denied by petition for writ of certiorari by the South Carolina Court of Appeals, and even if Mr. Fields were successful, he would not be released from imprisonment. For these reasons, Mr. Fields has no specific right to be enforced so a mandamus is not appropriate. Also, as set forth in Keeler, his remedy since he is procedurally barred is a petition in the original jurisdiction of the South Carolina Supreme Court.

As additional grounds, Mr. Fields has failed to allege facts constituting a cause of action, the relief request is successive, and is barred by the applicable statutes of limitations.

NOW THEREFORE, it is hereby ordered that the State of South Carolina's Motion to Dismiss Mr. Field's Writ of Mandamus is granted.

AND IT IS SO ORDERED.

6/10, 2014
Charleston, South Carolina


Honorable J. C. Nicholson, Jr.

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
By [Signature]
DEPUTY CLERK

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-10-0305

Sidney Fields
PLAINTIFF(S)

The State of South Carolina
DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (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 _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

2014 SEP 10 11 03 AM
CIRCUIT COURT

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Plaintiff Sidney Fields Motion to Reconsider, filed June 24, 2014, is hereby **DENIED**.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

[Signature]
Circuit Court Judge

2117
Judge Code

9/8/14
Date