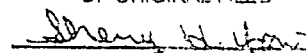


STATE OF SOUTH CAROLINA)
 COUNTY OF SUMTER)
)
 Maurice Graves, #208580)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE THIRD JUDICIAL CIRCUIT

Case No. 2014-CP-43-735

FINAL ORDER OF DISMISSAL

CERTIFIED TRUE COPY
 OF ORIGINAL FILED

 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

2015 FEB 12 PM 1:07
 RECORDED
 JAMES C. CAMPBELL
 CLERK OF COURT
 SUMTER COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 14, 2014. The Respondent made its return on July 9, 2014, requesting the application be summarily dismissed based upon statute of limitations, successiveness, doctrine of *res judicata*, and failing to meet the required elements of newly discovered evidence.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed July 11, 2014 and filed July 18, 2014, provisionally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated August 21, 2014, serving the above mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned "Why Conditional Order of Dismissal Should Not Become Final" filed on August 19, 2014, the Applicant argues that he should be granted an evidentiary hearing due to newly discovered evidence due to the discovery of a statement from Charlie Wright. Applicant's stated that Charlie Wright's statement was never disclosed to the courts or defense. Additionally, Applicant alleges that the failure to turn over Charlie Wright's statement

to a Brady violation. Applicant further argues he is entitled to an evidentiary hearing due to subject matter jurisdiction issue.

This Court has reviewed the Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. Generally, an applicant may raise a newly discovered evidence claim within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence *could have been* ascertained. S.C. Code Ann. § 17-27-45(c) (2014). When an applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only when the applicant presents evidence showing (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea and (2) the newly discovered evidence is of such weight and quality that, under the facts of circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea be vacated. Jamison v. State, 765 S.E.2d 123, 129, ___ S.C. ___, ___ (2014).

"[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013) (citing Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal defendant's right to contest the validity of such a plea is usually, but not definitely, foreclosed. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (2007). Further, "a defendant is not entitled to withdraw his plea merely because he discovers long after the plea has

been accepted that his calculus misapprehended the quality of the State's case or the likely penalties attached to alternative courses of action." Brady v. U.S., 397 U.S. 742, 757 (1970).

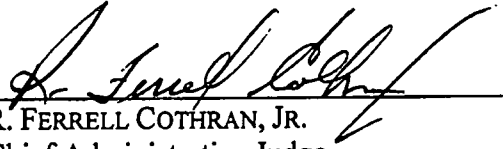
In Jamison, the South Carolina Supreme Court noted it would be a "rare case" where the interests of justice require the vacation of a knowing and voluntary guilty plea involving an admission of guilt and a waiver of trial. 165 S.E.2d at 130. Before the circuit court will hold an evidentiary hearing, 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). Applicant's newly discovered evidence claim does not sufficiently or clearly present a "rare case" requiring a vacation in the interest of justice. First, Wright's statement neither exonerates nor inculpates Petitioner. In his statement, Mr. Wright does not identify any of the individuals in the car that was dragging the victim. Mr. Wright only notes that he observed the vehicle that was dragging the victim, and that the victim was held by the person in the back seat of the vehicle while another attempted to get something from the victim. Second, Applicant alleges that Charlie Wright's statement was forged because Mr. Wright acknowledged that he could not read or write. However, Applicant presents no evidence to show that the statement was not what Mr. Wright told law enforcement. Finally, Applicant has failed to show how this statement could not have been discovered through the exercise of due diligence.

This Court notes the Applicant pled guilty on December 13, 1993. As this action was filed on April 14, 2014, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-2745(a) (Supp.2003). This is the Applicant's fourth application for post-conviction relief. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). This Court finds the Applicant had the opportunity to litigate all issues regarding Brady violations or subject matter jurisdiction at the

evidentiary hearing for his first PCR application on August 28, 1994: See Odom v. State, 337 S.C. 256, 261 523 S.E.2d 753, 755 (1999). (“[A]n Applicant is entitled to a full adjudication on the merits of the original petition, or ‘one bite at the apple.’”).

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court’s Conditional Order of Dismissal, the Application for post-conviction relief is hereby denied and dismissed with prejudice.

AND IT IS SO ORDERED this 5 day of Feb, 2013.



R. FERRELL COTHRAN, JR.
Chief Administrative Judge
Third Judicial Circuit Court

Manning, South Carolina.

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

RECORDED

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP4300735

Maurice Graves

2015 FEB 12 PM 1:25

South Carolina State of CERTIFIED TRUE COPY
OF ORIGINAL FILED

JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Clerk of Court

Attorney for: Plaintiff Defendant
 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. See Page 2 for additional information.
- 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:

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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: **See attached Order.**

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)

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.

	2144	2/12/2015
Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on, to attorneys of record or to parties (when appearing pro se) as follows:

Maurice #208580 Graves Lee Correctional Inst/Richland
#208 990 Wisacky Hwy Bishopville, SC 29010

Alan McCrory Wilson PO Box 11549 Columbia, SC 29211-
1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

James C. Campbell

Court Reporter

James C. Campbell - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

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