

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

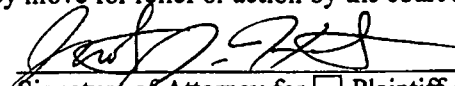
RECORDED

2015 APR 24 PM 3:08 SE NO.: 2014-CP-43-735

MAURICE GRAVES, #208580)
vs. JAMES L. CAMPBELL)
CLERK OF COURT)
SUMTER COUNTY, S.C.)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

STATE OF SOUTH CAROLINA)
Defendant.)

Plaintiff's Attorney: Maurice Graves, #208580, Bar No. _____ Address: Lee Correctional Institution Bishopville, SC 29010 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Justin J. Hunter, Bar No. _____ Address: PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	
April 2, 2015 Date submitted	
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
2015 APR 24 PM 3:08)
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

**ORDER DENYING APPLICANT'S
MOTION TO ALTER OR AMEND
JUDGMENT PURSUANT TO
RULE 59(e)**

CERTIFIED TRUE COPY
OF ORIGINAL FILED
[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

This matter comes before this Court by way of an application for post-conviction relief filed April 14, 2014. In its Return and Motion to Dismiss, Respondent requested that the action be summarily dismissed as filed beyond the statute of limitations, successive to his previous applications for post-conviction relief, barred by res judicata, and failing to meet the required elements of newly discovered evidence. A Conditional Order of Dismissal was filed on July 18, 2014, giving Applicant twenty (20) days to provide sufficient explanation or reason as to why the dismissal should not become final. Applicant was served with the Conditional Order of Dismissal on August 21, 2014. Applicant responded to the Conditional Order of Dismissal. Following this Court's review of Applicant's reply to the Conditional Order of Dismissal, this Court issued a Final Order of Dismissal on February 5, 2015, which was filed on February 12, 2015.

I.

Applicant filed this current motion, captioned "Motion to Alter or Amend The Judgment Pursuant to Rule 59(e) SCRPC" on February 24, 2015. In his motion, Applicant raises issues of

newly discovered evidence and a Brady violation. Having carefully reviewed the entire record in this matter, this Court finds that there is no basis for altering or amending its prior ruling.¹

II.

Additionally, Applicant raises a new issue of a judicial conflict of interest. This Court finds that this allegation is not proper in a Rule 59(e) motion as it is an assertion of a new allegation. See Hickman v. Hickman, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990) ("A party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.")

Due to the nature of this allegation, this Court responds *arguendo* and finds that even if the Court were to entertain this allegation as a reason for a new trial, it is without merit. Applicant alleges in his current motion that the Honorable W. Jeffrey Young had a conflict of interest and should have recused himself from Applicant's current PCR action because Applicant was represented by Kenneth Young, Esquire, Judge Young's brother, in his second PCR action filed in 2000.² The 2000 PCR action was brought before the Honorable Howard King and was dismissed after Applicant withdrew the application. Ten years later, Applicant filed his third PCR action³ and Judge Young signed a Conditional Order of Dismissal and a Final Order of Dismissal, dismissing the action as being successive and filed beyond the statute of limitations. To the extent that Applicant asks this Court to reconsider anything related to Applicant's 2010 PCR action, this Court finds these allegations are untimely and improper. In Applicant's current PCR action, Judge Young only signed the Conditional Order of Dismissal. This Court finds that a Conditional Order of Dismissal is not a final order of the Court and any issue surrounding

¹ The Court, in its discretion, has considered this matter based upon the motions submitted by the parties and the post-conviction relief file, since oral argument will not aid the Court in reaching its decision. See Rule 59(f), SCRCP.

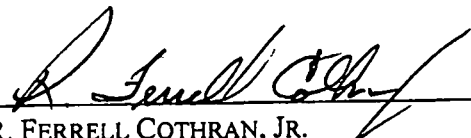
² C.A. #2000-CP-43-00186

³ C.A. #2010-CP-43-01088.

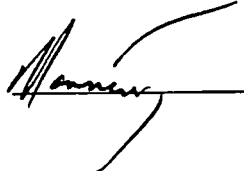
Judge Young's signing of the conditional order was remedied by the Honorable R. Ferrell Cothran, Jr.'s signing of the Final Order of Dismissal. Accordingly, in addition to being improperly brought before the Court, this allegation is without merit and does not require the Court to alter or amend its previous ruling.

This Court advises that if Applicant desires to secure appellate review of this Order and the Order of Dismissal, a notice of appeal must be filed and served **within thirty (30) days** of the service of this Rule 59 Order. Applicant is directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of appeal has been timely filed.

AND, IT IS SO ORDERED this 6 day of April, 2015.



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


_____, South Carolina

RECORDED

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP4300735

2015 APR 24 PM 4:17

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

Maurice Graves

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

South Carolina State of

CERTIFIED TRUE COPY
OF ORIGINAL FILED

Shane H. ...
DEPUTY CLERK OF COURT

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.

Circuit Court Judge	2144	4/24/2015
	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.
