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NOV 06 2017

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

November 2, 2017

Re: *State vs. Polly McAbee Hindman*
Appellate Case No.: 2017-00635
Status Report

Dear Ms. Kitchings:

The Order of the Court of Appeals filed October 5, 2017 directed the Appellant to provide the Court of Appeals with status updates every thirty days.

Appellant Polly M. Hindman served and filed her Motion for a New Trial on the Ground of Newly Discovered Evidence on October 10, 2017.

We enclose a copy of Appellant's Motion and a letter to Judge Edward W. Miller which requested a hearing.

We anticipate that Judge Edward W. Miller will set the Motion for hearing in the next several days.

Sincerely,

A handwritten signature in black ink, appearing to read "Clifford F. Gaddy, Jr.", written in a cursive style.

Clifford F. Gaddy, Jr.

Enclosures

cc: Judge Edward W. Miller
Sylvia P. Harrison, Esquire
Polly M. Hindman

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
State of South Carolina,)
)
Solicitor,)
)
vs)
)
Polly McAbee Hindman,)
)
Defendant.)
)

IN THE COURT OF GENERAL SESSIONS
13th JUDICIAL CIRCUIT

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Case # 2015-GS-23-15680V 06 2017

SC Court of Appeals
MOTION FOR A
NEW TRIAL
ON THE GROUND OF
NEWLY DISCOVERED EVIDENCE

2017 OCT 10 PM 12: 07
FILED-CLERK OF COURT
PAUL B. WOODSON
GREENVILLE CO SC

TO: The Honorable EDWARD W. MILLER, Circuit Judge

Defendant Polly McAbee Hindman ("Hindman") hereby moves for a NEW TRIAL on the GROUND of NEWLY DISCOVERED EVIDENCE. The Motion shall be heard by the Court on the date and at such time as suits the convenience of the Court.

The grounds for this Motion are the following:

1. Polly M. Hindman was found guilty on December 14, 2017 of the S.C. Code of Laws 1976 Section 43-35-0085 Exploitation of a Vulnerable Adult.
2. To prove the offense the primary evidence of the State of South Carolina were copies of checks payable to Hindman drawn on the bank account of Bette Riddle, the vulnerable adult.

3. The checks payable to Hindman from Bette Riddle's bank account totaled \$28,832.86. The sum of two checks payable to Hindman totaling \$12,832.86 were included in this amount. The remaining \$16,000.00 (\$28,832.86 - \$12,832.86) were not identified in the Trial Transcript although Assistant Solicitor Harrison during the trial referred to Polly Hindman wrongfully obtaining \$16,000.00 from the assets of Bette Riddle. See Transcript Page 139, lines 10-16 when Assistant Solicitor Harrison argues to the jury that Defendant Polly Hindman wrongfully obtained \$16,000.00. Attached to this Motion for convenience. See the Transcript from the Trial, page 110, lines 8-20 attached hereto for convenience. The State contended that these two checks represented funds wrongfully obtained by Hindman from the bank account of Bette Riddle. In her testimony Hindman denied that she wrongfully obtained these funds from Bette Riddle's bank account. She explained that the checks from Bette Riddle's bank account were reimbursement of funds paid by her to Woodlawn Funeral Home to cover Pre-Burial funeral expenses for Bette who wanted to pay in advance for her funeral.

4. Assistant Solicitor Sylvia Harrison rejected the explanation of Hindman. She argued to the jury that the checks totaling \$12,832.86 were funds improperly obtained by Hindman from the bank account of Bette Riddle.

5. Bette Riddle died on June 22, 2017. Her funeral expenses were prepaid.

6. The documents attached to this Motion as Exhibits came from Woodlawn Funeral Home. In the documents Woodlawn acknowledges that the pre-payment back in December 2012 was the source of payment of Bette Riddle's funeral on June 22, 2017.

7. The fact that the payment received by Woodlawn Funeral Home during December 2012 came from the checks payable to Woodlawn from the bank account of Polly Hindman substantiates the testimony of Hindman. The funeral expenses of Bette Riddle incurred during June 2017 were paid by funds given to Woodlawn in December 2012 by Hindman as she testified.

8. Relevant excerpts from the deposition of the Manager of Woodlawn Funeral Home, Wesley Matthew James, are attached for the convenience of the Court.

Mr. James, General Manager of Woodlawn Funeral Home (Deposition Page 7), describes the records of Woodlawn relevant to the situation.

Exhibits 3A through 3L are copies of documents from the records of Woodlawn. They show that Polly Hindman paid \$12,832.86 to Woodlawn Funeral Home on December 19, 2012 for burial expenses and funeral expenses paid in advance for Bette Riddle.

Exhibit 4 through Exhibit 8 which are records of Woodlawn are also attached.

On Page 33 of the Deposition of Wesley Matthew James we find,

16 Q. All right. And my next question is,
17 based upon your review of the record of Woodlawn
18 have you found that your records show that Polly
19 Hindman paid for the interment expenses and the
20 pre-burial expenses of Bette Riddle back in
21 December of 2012?

22 A. yes, sir, that's correct.

23 MR. GADDY: All right. That
24 completes all of our questions, and we're at the end.

9. Assistant Solicitor Sylvia P. Harrison maintained during the trial that the checks payable to Hindman in the amount of \$12,832.86 during December 2012 were wrongfully obtained funds. The records of Woodlawn show that the cost of the funeral and burial expenses during June 2017 were prepaid. This means that the State of South Carolina is wrong and that the testimony of Hindman was truthful.

10. During the Restitution Hearing held on February 17, 2017 Assistant Solicitor Sylvia P. Harrison contended that the checks having a total of \$12,832.86 were funds wrongfully obtained by Hindman.

11. Judge Edward W. Miller directed that Hindman pay \$88,000.00 in restitution. He included the amount of \$12,832.86 in the restitution amount.

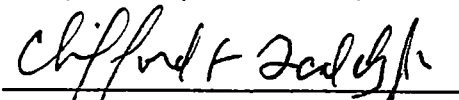
12. As stated above, the documents from Woodlawn Funeral Home substantiate that Hindman paid Woodlawn the sum of \$12,832.86 to pay in advance the funeral expenses of Bette Riddle.

13. The documents coming from Woodlawn Funeral Home attached hereto as exhibits constitutes evidence not available either in the trial of Hindman on December 14, 2016 nor the Restitution Hearing held on February 17, 2017.

14. For the reasons expressed above the Motion to Grant Leave to Appellate to move for a new trial should be granted.

October 10, 2017

Respectfully submitted,



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121 Inglewood Way
Greenville, SC 29615

SC Court of Appeals
Email: cfig126@yahoo.com

October 10, 2017

The Honorable Edward W. Miller
Circuit Judge
Greenville County Courthouse
305 East North Street, Suite 325
Greenville, SC 29601

RE: State of South Carolina vs. Polly McAbee Hindman
C.A.# 2015-GS-23-1563

HAND DELIVERED

Dear Judge Miller:

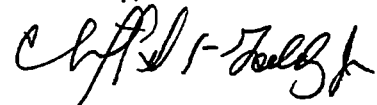
We enclose a copy of Defendant's Motion for a New Trial on the Ground of Newly Discovered Evidence.

We also enclose a copy of the Court of Appeals Order dated October 5, 2017 granting leave to Defendant Hindman to make this Motion.

Please set this Motion for hearing on a date and at a time which meets the convenience of the Court. The time required should be more than 15 minutes and less than 30 minutes.

With kindest regards,

Sincerely,



Clifford F. Gaddy, Jr.

Enclosures

CC: Assistant Solicitor Sylvia P. Harrison

G
Cliff Gaddy
Law Firm

40 years of experience on your side.

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Greenville, SC 29615



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South Carolina Court of Appeals
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