

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS  
NINTH JUDICIAL CIRCUIT

FILED  
2018 JAN 19 PM 4:20  
JULIE J. ARMSTRONG  
CLERK OF COURT

RECEIVED  
JAN 31 2018  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
BY \_\_\_\_\_

ORDER

vs.

Arrest Warrant #H194173

ANTWON DEANGELO  
GOODWIN,

Indictment #2002-GS-10-7745

DEFENDANT.

This matter comes before the Court upon Motion for a New Trial Pursuant to Rule 29(a) and (b), SCRCrimP, filed by the Defendant on March 29, 2017. The State filed its response on August 8, 2017 seeking dismissal of the Motion. An evidentiary hearing was conducted by the Court on August 31, 2017 in Richland County, South Carolina with the consent of the parties. The Court has continuing jurisdiction to hear this Motion pursuant to the terms of Rule 29(a), SCRCrimP, and the parties have waived any challenge to venue. The Defendant was represented by Tricia A. Blanchette, Esquire and the State was represented by D. Bruce DuRant, Chief Deputy Solicitor for the Ninth Judicial Circuit.

PROCEDURAL HISTORY

During the December 2002 term of the Charleston County Grand Jury, Defendant was indicted for murder (Indictment No.: 2002-GS-10-7745). On January 6, 2003, Defendant appeared in front of the Honorable Paul M. Burch and a jury at the Charleston County Courthouse for trial. The Defendant was represented by James W. Smiley, Esquire, and the State was represented by Assistant Solicitors Shaun Kent and Bentley Price. On January 9, 2003, the Defendant was found guilty as indicted. The Honorable Paul M. Burch sentenced Defendant to life.

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., S.S. & J.C.  
By Tricia A. Blanchette  
DEPUTY CLERK

Subsequent to imposition of the sentence the following colloquy took place between defense counsel and the Court:

Mr. Smiley: "I have several motions. Can I reserve that until later Your Honor?"

The Court: "Certainly. I will be back here two weeks from now." (Tr Transcript, p. 690)

The Court noted that Defendant's Motions were reserved for a later date on the sentence sheet, however, no post-trial motions were filed by counsel for the Defendant.

On August 31, 2005 the Defendant filed a post-conviction relief application asserting he received ineffective assistance of counsel for counsel's failure to appeal. At a hearing convened on August 20, 2007 regarding the State's motion for summary dismissal, the parties agreed the post-trial motions relating to 02-GS-1 0-7745 had not been presented to the trial court and were still pending for resolution. The Defendant was represented by J. Michael Bosnak, Esquire. By Order dated September 20, 2007, the PCR action was dismissed without prejudice to allow the Defendant to pursue resolution of any post-trial motions and a direct appeal. No post-trial motions were filed by counsel for the Defendant.

By written motion filed on February 26, 2014, Tricia A. Blanchette, Esquire, moved to be substituted as Defendant's counsel. By Order of the Honorable Roger M. Young filed March 5, 2014, Tricia Blanchette was substituted as counsel for Defendant and directed to file post-trial motions on Defendant's behalf.

Three years later, on March 29, 2017 a Motion for a New Trial Pursuant to Rule 29(a) and (b), SCRCrimP, was filed with the Charleston County Clerk of Court. Pursuant to Rule 29(a), SCRCrim P, Defendant seeks a new trial alleging errors of law in 13 separate rulings made by the Court during the Defendant's trial. Pursuant to Rule 29(b), SCRCrimP, Defendant seeks a new trial based upon after-discovered evidence. Attached to the Motion is an affidavit signed by

Maurice Fields dated October 25, 2016 who testified against the Defendant at his trial in 2003. In his affidavit Maurice Fields recants his trial testimony implicating the Defendant and claims he was lying. On August 8, 2017 the State filed its response to the Defendant's Motion requesting the Court to deny the Motion. The matter was set by the Court for a hearing at the Richland County Judicial Center on August 31, 2017. Based upon the filings, exhibits and testimony presented, this court finds as follows.

I find the Defendant's request for a new trial pursuant to Rule 29(a), SCRCrimP, should be denied as it was not timely filed. In pertinent part, Rule 29(a), SCRCrimP, provides that "except for motions for new trials based on after-discovered evidence, post-trial motions shall be made within ten (10) days after the imposition of the sentence". Although I extended this time by allowing the Defendant to make his post-trial motions when I returned to Charleston two weeks after the Defendant's conviction, no post-trial motions were filed or heard. Even assuming this time was extended again by the Court when the Defendant's PCR was dismissed in 2007 and once again when Ms. Blanchette was substituted as Defendant's counsel in March of 2014, the motion for a new trial pursuant to Rule 29(a), SCRCrimP, was not filed until March 29, 2017, some three years after Ms. Blanchette became involved in the case. There has been no satisfactory explanation for the delay of over 14 years in filing post-trial motions pursuant to Rule 29(a). I find the delay is unreasonable and the relief requested pursuant to Rule 29(a), SCRCrimP, is time barred.

Additionally, as a further sustaining ground, the Court has reviewed the trial transcript and its rulings made during the course of the Defendant's trial and is confident there was no error of law controlling the Court's rulings which would entitle the Defendant to a new trial.

I further find the Defendant's motion for a new trial based upon after discovered evidence pursuant to Rule 29(b), SCRCrimP, should be denied. Although this motion was time filed, it fails upon its merits. To prevail on this claim a defendant "must show that the after-discovered evidence: 1) is such that it would probably change the result if a new trial were granted; 2) has been discovered since the trial; 3) could not in the exercise of due diligence been discovered prior to trial; 4) is material; and 5) is not merely cumulative or impeaching." State v. Spann, 334 S.C. 618, 619, 513 S.E.2d 98, 99 (1999) (citing State v. Prince, 316 S.C. 57, 447 S.E.2d 177 (1993)). The Defendant's proof fails on a number of fronts.

I find Field's recantation of his trial testimony would not likely change the result if a new trial was granted, is not material and is merely impeaching. There was ample evidence to establish the Defendant's guilt beyond a reasonable doubt, independent of the testimony of Maurice Fields, to include:

- Testimony of a number of witnesses putting the Defendant at the scene of the crime;
- Testimony of an eye-witness, Edwin Middleton, who observed the Defendant walk up behind the victim and shoot him in the back of the head;
- Impeachment of a witness who had made a previous statement indicating she had observed the Defendant shoot the victim, and
- Evidence regarding the Defendant's motive for killing the victim.

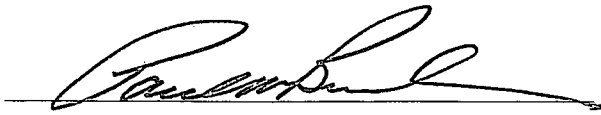
In addition, Maurice Fields testified before a Federal Grand Jury in August of 2002 and at the Defendant's trial in January of 2003 that the Defendant admitted having shot the victim in the back of the head. Even if a new trial was granted and Fields testified that he was untruthful in his previous testimony, he would merely be impeached with his previous Grand Jury and Trial testimony.

However, the principal reason the Court declines to grant a new trial based upon after discovered evidence is due to the lack of credibility of the witness. Maurice Fields. “A motion for a new trial based on after-discovered evidence is addressed to the sound discretion of the trial judge.” State v. Irvin, 270 S.C. 539, 545, 243 S.E.2d 195, 197 (1978). The credibility of newly-discovered evidence is for the trial court to determine. State v. Porter, 269 S.C. 618, 621, 239 S.E.2d 641, 643 (1977). Only the trial court and not the appellate court has the power to weigh the evidence; the trial court's judgment will not be disturbed except for error of law or abuse of discretion. *Id.* “In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment.” State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009). “ ‘Recantation of testimony ordinarily is unreliable and should be subjected to the closest scrutiny when offered as ground for a new trial.’ ” Porter, 269 S.C. at 621, 239 S.E.2d at 643 (quoting State v. Mayfield, 235 S.C. 11, 34–35, 109 S.E.2d 716, 729 (1959)).

Having observed the demeanor of the witness, Maurice Fields, and having listened to his testimony wherein he recanted his previous trial testimony, I conclude his testimony lacks any scintilla of credibility. From the beginning of the hearing Fields exhibited disrespect for the court. While being questioned he continued to be disrespectful, argumentative, combative, and non-responsive to questions. He denied making statements at trial which the trial transcript clearly showed he had made. At one point he went so far as to claim his entire trial testimony was read off of a script provided to him by law enforcement. In short, the Court did not believe a word of his testimony.

For the reasons set forth above it is hereby,

ORDERED, that the Defendant's Motion for New Trial Pursuant to Rule 29(a) and 29(b), SCRCrimP, shall be denied.



Paul M. Burch, Circuit Court Judge  
Presiding Judge

December 4, 2017  
Chesterfield, South Carolina

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