

STATE OF SOUTH CAROLINA
COUNTY OF OCDNEE

IN THE COURT OF COMMON PLEAS
10th Judicial Circuit

FILED OCDNEE COUNTY, SC
CLYDE H. WATFIELD
CLERK OF COURT

Roderick McRae, #236188,
Applicant,

C/A No.: 2018-CP-37-100

2018 JUL 24 A 11: 54

v.

State of South Carolina,
Respondent.

OPPOSITION TO
CONDITIONAL ORDER OF DISMISSAL

ABOVE-CAPTIONED APPLICANT ('McRae') makes Opposition to the Conditional Order of Dismissal, rendered by the Honorable R. Lawton McIntosh, and Filed on June 11, 2018, granting McRae twenty (20) days from the July 6, 2018 day which service of said document was completed upon McRae, for McRae to show why the Conditional Order should not become final against McRae.

I.

(a) - The Conditional Order should not become final where, on Judge McIntosh's Finding that McRae 'Newly Discovered Evidence' claim fails based on McRae failing to make a prima facie showing (see 'Conditional Order' pp. 8-9), the following facts exist:

(i) - the Conditional Order overlooks and otherwise fails to address the allegation stating how he received 'After discovered evidence of a

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City (P) McRae (D) Oppenheimer
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Brady violation by Solicitor' in failing to turn over documents, that McRae received from SHED years after his conviction, which reveal that a chain of custody forms/reports does not specify the amount of drugs, nor state wherefore the state Trooper C.E. Long got (seized) the firearm weapon, nor what he did with it thereafter; there is absolutely no evidence entered into the record which shows McRae could have presented the basis of his 'Newly Discovered Evidence' prior to time alleged, and when a new trial is sought by way of after acquired evidence, a PCR Court should grant a new trial upon sufficient allegations (constituting a prima facie showing) that the evidence was recently discovered and cast a light upon the potential that a trial or sentencing will more than likely produce a different result. (see, e.g., Wick v. State, 761 S.E. 2d 757 (S.C. 2014) (opting to remand upon showing of mitigation evidence in sentencing phase; was erroneously overlooked by PCR Court); State v. Spann, 513 S.E. 2d 48, 100 (S.C. 1999))

(granting new trial where new evidence was discovered eighteen (18) years after the original trial)). Thus, where the Conditional Order moves for summary dismissal by saying McRae failed to make a prima facie showing (see Conditional Order, Pg. 9, ln. 5-7), this is in error, and should not support Judge McIntosh's Conditional Order.

II.

CONCLUSION

WHEREFORE, McRae submits that Judge McIntosh's Conditional Order should not become Final.

Respectfully Submitted,

1s/ Roderick McRae
Roderick McRae, #236188
M.C.I. F-3-233-B
386 Redemption Way
McCormick, SC 29899

7 - 17 - 2018
DATE

To the court I'm ask for more
time because we are lock
down and its hard for me
to get to the law library
so if its anyway possible that
I can get more time than
the 20 day

I do appericate it
very much

Roderick
McRae

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CLERK OF COURT
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