

THE STATE OF SOUTH CAROLINA

[In The Supreme Court]

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APPEAL FROM GEORGETOWN COUNTY

S.C. SUPREME COURT

Court of Common Pleas

William H. Seals Jr., Circuit Court Judge

Case No. 2018-CP-22-0488

State of South Carolina.....Respondent,

v.

Jody Ward, #300644.....Appellant,

NOTICE OF APPEAL

Jody Lynn Ward, #300644, appeals the Order [judgment] of the Honorable William H. Seals Jr. dated: December 31, 2018. Appellant received written notice of entry of this Order [Judgment] on February 7, 2018, served on him by Sgt. Kelley of McCormick, Co.I. and the appellant files this Notice of Appeal On February 27th, 2019.

Other Counsel of Record:

Johnny E. James, Jr. Esq.
Office of Attorney General
Post Office Box 11549
Columbia, S.C. 29211-1549

1st Jody Lynn Ward, #300644
Jody Lynn Ward, #300644
McCormick, Corr. Inst.
F-3-A-276
386 Redemption Way
McCormick, S.C. 29899

Clerk Of Court
SC Supreme Court
PO Box 11330
Columbia, SC 29201

Jody Lynn Ward
McCormick, CI
386 Redemption Way
McCormick, SC 29809

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WARD V. STATE

S.C. SUPREME COURT

Please find enclosed a Rule 243 SCACR, In connection with Notice Of Appeal and Petition For Writ Of Certiorari along with Proof of Service upon SCAE, Certificate of Service.

CC. Sent to :

S.C. Office of the Attorney General
Attn: Johnny E. James, Jr. Esq.
Post Office Box 11549
Columbia, S.C. 29211-1549

Respectfully, *Jody Lynn Ward*
Jody Ward #300644

CERTIFICATE OF
SERVICE

I do hereby swear that a True & Correct copy of the Notice of Appeal & S.C.A.C.R. Rule 243 explanation Required was Served On S.C. Attorney Generals Office, Mr. Johnny E. James Jr. By Way of Placing a True & Correct Copy in the U.S. postal Mail Postage Prepaid On February 27th 2019. This is to verify that the Opposing Counsel has been served at the time of his Filing

Respectfully Submitted,
Jody Lynn Ward, #300644

CC. File
Johnny E. James, Jr. Esq.

1. of 1.

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)
Jody Lynn Ward,)
S.C.D.C. No. 300644,)
Applicant,)
v.)
State of South Carolina)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Case No.: 2018-CP-22-00488

FINAL ORDER OF DISMISSAL

FILED
GEORGETOWN COUNTY, S.C.
2019 JAN -7 AM 9:10
ALMA Y. WHITE
CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief filed May 21, 2018. Respondent made its return on or about August 20, 2018, requesting the application be summarily dismissed as untimely, successive, barred by *res judicata*, and for failing to set forth a *prima facie* case 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 August 24, 2018, and filed August 31, 2018, provisionally denying and dismissing this action, while giving the Applicant 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 September 28, 2018, serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant filed a response to the Conditional Order of Dismissal on September 18, 2018. This Court has reviewed 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.

Applicant contends the Court erred in applying the five-prong test for newly discovered evidence as articulated in Hayden v. State, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983) (citing State v. Caskey, 273 S.C. 325, 256 S.E.2d 737 (1979)). Applicant asserts the Court should apply the test as set forth in McCoy v. State, which states that “[p]rovided a claim is timely raised, a new trial is warranted on the basis of juror misconduct if it is shown that[:]”

- (1) The juror intentionally concealed information; and
- (2) The information concealed would have supported a challenge for cause or would have been a material factor in the use of the party’s peremptory challenges.

401 S.C. 363, 371, 737 S.E.2d 623, 627 (2013) (citing State v. Woods, 345 S.C. 583, 587-89, 550 S.E.2d 282, 284 (2001)). Applicant is correct in that the five-prong test inapplicable as established in McCoy, but even under McCoy Applicant is not entitled to an evidentiary hearing. As the Supreme Court in McCoy noted, the claim must still be *timely raised*. As Applicant first sought relief on this ground in October 2014, and as Judge Hyman rejected that effort upon finding Applicant knew about the “new evidence” prior to and at the time of trial in 2004, he cannot now achieve a hearing based upon the information.

Applicant argues vociferously that Judge Hyman erred in rejecting his motion, but that question is appropriate for appeal, not for setting aside *res judicata* upon filing of a subsequent application for post-conviction relief. Indeed, Applicant’s appeal of Judge Hyman’s order remains pending now, just as it was at the time the Conditional Order was issued.

Further, the Court simply rejects Applicant’s contention that failure to disclose a landlord-tenant relationship is “BLATANT Juror misconduct” as insisted by Applicant. “A prior business relationship between a juror and a party to the case does not as a matter of law disqualify a juror.” Abofreka v. Alston Tobacco Co., 288 S.C. 122, 125, 341 S.E.2d 622, 624 (1986) (citing Palmetto Bank v. Rowland, 275 S.C. 38, 267 S.E.2d 426 (1980)). Returning to the prongs of McCoy, that a juror manages a mobile home park does not *per se* disqualify her from

presiding over any trial in which a denizen of that mobile home park may be called to testify, nor does it appear to be a material factor in the use of a peremptory challenge. Applicant offers nothing to actually show the juror intentionally concealed this information, but rather merely repeatedly insists that conclusion.

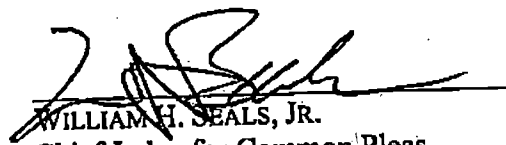
Applicant protests that in his motion of October 28, 2014, he challenged that the same juror failed to disclose personal and family relationships to witnesses, rather than business relationships. Applicant's protests betrays the game he attempts to play upon the Court, ferreting out new reasons well enough known to him, or which could have been known to him, throughout the process in order to try and secure new hearings as soon as the prior effort is defeated. What Applicant condemns as deceitful wordplay projects the character of his own efforts. This Court will not enable Applicant in his pattern of harassing the jurors who convicted him.

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**.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within 30 days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 31 day of December, 2018.

Ma, South Carolina.


WILLIAM H. SEALS, JR.
Chief Judge for Common Pleas
Fifteenth Judicial Circuit



ALAN WILSON
ATTORNEY GENERAL

February 1, 2019

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GENERAL COUNSEL

Barton J. Vincent, General Counsel
Attn: Jonathan Eckstrom
South Carolina Department of Corrections
4444 Broad River Road
Columbia SC 29221-1787

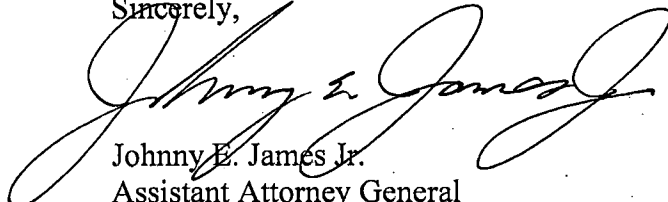
Re: Jody Lynn Ward, #300644 v. State of South Carolina
2018-CP-22-0488

Dear Mr. Eckstrom:

Enclosed please find the **Final Order of Dismissal** in the above-captioned inmate's post-conviction case. Please serve the inmate, **Jody Lynn Ward, #300644** with the order and provide me with an affidavit of service (enclosed).

If you have any questions, please do not hesitate to call me at (803) 734-3737.

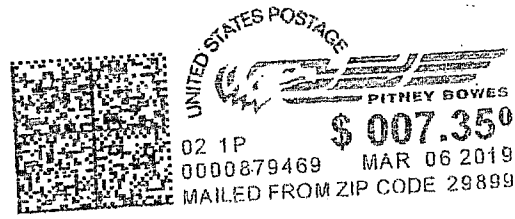
Sincerely,



Johnny E. James Jr.
Assistant Attorney General

JEJ/mm
Enclosure

-276



S.C. Supreme Court
Attn: Clerk of Court
P.O. Box 11330
Columbia, S.C. 29201

CKING #



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