

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions
Paul M. Burch, Circuit Court Judge

Appellate Case No. 2018-000144
Circuit Court Case No. 2002-GS-10-7745

RECEIVED
JUN 06 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

ANTWON DEANGELO GOODWIN

APPELLANT.

RECORD ON APPEAL

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1 THE COURT: All right. Mr.

2 Smiley?

3 MR. SMILEY: May it please the
4 Court?

5 THE COURT: Yes, sir.

6 MR. SMILEY: First of all, the

7 1994 adjudication of the defendant as a

8 juvenile delinquent, he was not waived up

9 as an adult. I spoke with his attorney in

10 that case, Ashley Pennington, and Ashley

11 said that he was adjudicated as a juvenile.

12 However, he was transferred to the Department

13 of Corrections on his 18th, his 19th birthday,

14 and that's the only reason it shows up.

15 That's actually a sealed record.

16 However, we do face either one of two

17 sentences irregardless whether that life

18 without parole notice is any good. It's

19 either Life/30 or life-without-parole, Your

20 Honor.

21 Of course, Antwon maintains his

22 innocence. We respect the decision of the

23 jury. We apologize or extend our condolences

24 to the Green family, irrespective of the fact

25 that he maintains his innocence.

1 Your Honor, I would ask you to
2 respectfully sentence him in this situation to
3 Life, so that he will be eligible for parole
4 or released after thirty years of
5 incarceration.

6 Antwon is a young man, he's extremely
7 intelligent and he's very well-spoken, very
8 polite young man. It's been an honor to
9 represent him.

10 I would ask that you give him an
11 opportunity to still have some life left.

12 Do you want to talk to the judge?

13 DEFENDANT: (Emotional, negative
14 gesture).

15 MR. SMILEY: Your Honor, my client
16 says that he is just too emotional to risk
17 talking to the Court. I renew my request for
18 a Life/30 Year sentence.

19 THE COURT: Solicitor, I will be
20 glad to hear from anyone.

21 MR. KENT: Yes, sir. The victim
22 would like -- the victim's family would like
23 to address the Court.

24 THE COURT: Certainly. Please tell
25 me your name.

1 MR. KENT: This is the father,
2 Freddie Green, Sr.

3 THE COURT: Mr. Green?

4 FREDDIE GREEN, SR.: Your Honor,
5 I just want to thank the Lord for sending
6 Freddie into my life. I want to thank Him
7 for fighting my battle, because when this
8 happened I turned it over to the Lord because
9 I knew that I couldn't find out who killed my
10 son. The Lord say is if I worship Him, and He
11 said if I come before Him that we will
12 discover the truth, that nothing shall He
13 withhold from me. I feel like He's already
14 done justice here today for what's already
15 been done. I feel like He would not put
16 somebody on the line that is not supposed to
17 be here. That's all that I have to say.
18 Thank you, Your Honor.

19 THE COURT: Thank you, Mr. Green.
20 I appreciate you coming forward.

21 MR. KENT: Your Honor, that's all
22 of the victim's family that would like to
23 address you.

24 THE COURT: All right. Well, I
25 have reviewed the notice of intent to seek a

1 sentence of life without parole, and that's
2 not going to come into play here. I want to
3 make that clear on the record.

4 Based on the testimony and evidence
5 that I have heard in this case, I cannot
6 ignore the juvenile record over the last
7 several years. This is about as close to an
8 execution-type murder and you get to --
9 because it was just that, it causes me great
10 concern. The sentence of the Court is going
11 to be that Antwon DeAngelo Goodwin be confined
12 to the State Department of Corrections for a
13 period of his natural life.

14 MR. SMILEY: I have several
15 Motions. Can I reserve that until later, Your
16 Honor?

17 THE COURT: Certainly. I will be
18 back here two weeks from now. With that said,
19 this case will now be drawn to a close. We
20 will recess just for a minute or two, because
21 the next case -- we've got a jury waiting and
22 I have to move on to that in just a few
23 minutes.

24 Once again, I want to thank the
25 members of the jury for coming and serving. I

1 want to thank Counsel once again for the
2 excellent presentation of their respective
3 sides, and all the court personnel in working
4 through this very difficult trial. I know
5 emotions have been running high with a lot of
6 family members and friends and everything.
7 It's been handled very professionally.
8 Fortunately we didn't have any incident where
9 anybody got hurt.

10 Court is in recess.

11 (CONCLUDED)

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WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

WILLIAM GORDON, CPD

027550

ARREST WARRANT NUMBER

H194173

AUGUST 5, 2002

502

ACTION OF GRAND JURY

REC 02 2002

[Signature]
Foreperson of Grand Jury

VERDICT

GUILTY

[Signature]
Foreperson of Petit Jury

1/9/03
Date:

DOCKET NO. 2002-GS-10-7745

02-3789 (1)

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

DECEMBER TERM 2002

THE STATE

vs.

ANTWON DEANGELO GOODWIN

Indictment for

MURDER

BY AND
JULIE J. ARMSTRONG
CLERK OF COURT

2002 DEC 10 PM 1:45

FILED

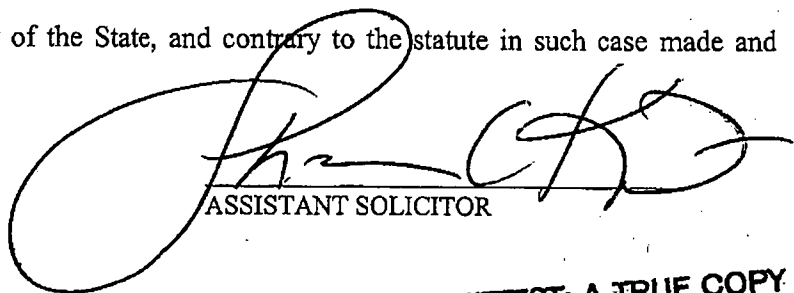
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)


INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on December 2, 2002 the Grand Jurors of Charleston County present upon their oath:

That Antwon Deangelo Goodwin did in Charleston County on or about December 12, 2000 ~~while acting in concert with another~~, feloniously, willfully and with malice aforethought murder one Freddie Green, to wit: did fire a single gunshot into the head of Freddie Green, and that Freddie Green did die in Charleston County as a proximate result on or about December 12, 2000. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURTS
BY 
DEPUTY CLERK

SOUTH CAROLINA (Tues.)
 COUNTY OF Charleston
 STATE VS.
Antwon Deangelo Goodwin
 AKA:
 Race: B Sex: m Age: _____
 DOB: _____ SS#: _____
 Address: _____
Charleston SC 29403
 DL# _____ SID#: _____

THE COURT OF GENERAL SESSION
 INDICTMENT/CASE#:
2002-GS-10-7745
 A/W#: H194173
 Date of Offense: 12-12-00
 S.C. Code §: 16-13-10
 CDR Code #: 011116
 CASE RESTORED

SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Murder (30 - LIFE)
 in violation of § 16-13-10 of the S.C. Code of Laws, bearing CDR Code # 011116

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
[Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant
 (SIN SMILEY)

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of LIFE days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.
 CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

Recipient: _____
 *Fine:\$ _____
 §14-1-206 (Assessments 100%).....\$ _____
 §14-1-211(A)(1) (Surcharge)\$ 100.00
 §14-1-211(A)(2) (Surcharge)\$ _____
 §56-5-2995 (DUI Assessment).....\$ _____
 3% to County (if paid in installments)...\$ 3.00
 TOTAL\$ 103.00

Rebecca Buchanan
 Clerk of Court/ Deputy Clerk

Court Reporter: Deborah Garrison

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc Rehab. or Job Corps _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund.
 Other: Defendants Motion
Reserved for a later date

ATTEST: A TRUE COPY
 JULIE J. STRONG (SEAL)
 CLERK C. P. & D. S.
 DEPUTY CLERK

PRESIDING JUDGE [Signature]
 Judge Code: D10148
 Sentence Date: 1-9-03

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Antwon Deangelo Goodwin, 249157,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2005-CP-10-3570

ORDER OF DISMISSAL
 WITHOUT PREJUDICE

FILED
 2007 SEP 26 AM 9:07
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

This matter comes before the Court by way of an application for post-conviction relief filed on August 31, 2005. The Applicant was indicted at the December 2000 term of the grand jury for Charleston County for murder (02-GS-10-7745). He was represented by James W. Smiley, Jr., Esquire. On January 6 - 9, 2003, the Applicant proceeded to trial before the Honorable Paul M. Burch, and a jury. The Applicant was found guilty of murder and was sentenced to confinement for a period of the Applicant's natural life. The trial transcript reflects that, immediately upon sentencing, the Applicant indicated he had several motions he wished to present to the trial court and requested to reserve the motions until a later date. (Tr. p. 690, lines 14 - 16). Judge Burch agreed. (Tr. p. 690, lines 17 - 19; see also sentencing sheet indicating "Defendant's motions reserved for a later date"). On August 31, 2005, the Applicant filed a post-conviction relief application asserting he received ineffective assistance of counsel for counsel's failure to appeal. The Respondent made return to the application and moved for summary dismissal of the post-conviction relief action.

At a hearing convened on August 20, 2007 regarding the State's motion for summary

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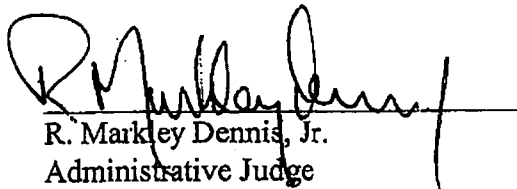
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dismissal, the parties agreed the timely post-trial motions relating to 02-GS-10-7745 have not been presented to the trial court and are still pending for resolution. The parties agreed the time for the Applicant's direct appeal from the murder conviction and sentence will not begin to run until the motions are heard and ruled upon. See Rule 203(b)(2) ("the time for appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying" timely post-trial motions).

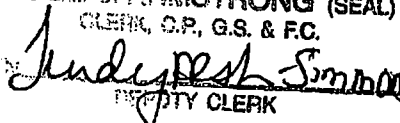
Because the timely post-trial motions are still pending regarding the murder conviction and/or sentence, jurisdiction of the matter is in the Charleston County Court of General Sessions, and thereafter, with the appellate courts if the Applicant elects to pursue the appeal he indicates he wishes to pursue after the post-trial motions are ruled upon. Accordingly, the post-conviction relief action must be dismissed without prejudice as premature and until such time as the post-trial motions and any direct appeal the Applicant may pursue are resolved.

IT IS THEREFORE ORDERED that the Application filed on August 31, 2005 be dismissed without prejudice.

AND IT IS SO ORDERED this 20th day of Sept., 2007.


R. Markley Dennis, Jr.
Administrative Judge
Ninth Judicial Circuit

Moncks Corner, South Carolina.

THIS IS A TRUE COPY
JAMES J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.

JUDY BETH SIMMONS
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

State of South Carolina,)

2002-GS-10-7745

v.)

Antwon Deangelo Goodwin,)
Defendant.)

**MOTION FOR A NEW TRIAL
PURSUANT TO RULE 29(A) & (B),
SCRCrimP**

COMES NOW Defendant, through his undersigned attorney, and moves before this Court pursuant to Rule 29 (a) & (b), SCRCrimP, for a new trial. Defendant submits that the exculpatory information contained in the Affidavit of Maurice J. Fields, which is attached, amounts to after discovered evidence under Rule 29(b), SCRCrimP, and State v. Spann, 334 S.C. 618, 513 S.E.2d 98 (1999). Defendant has also submitted an Affidavit in support of his claim of after discovered evidence. See State v. DeAngelis, 256 S.C. 364, 371, 182 S.E.2d 732, 735 (1971).

PROCEDURAL HISTORY

During the December 2002 term of the Charleston County Grand Jury, Defendant was indicted on 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. Defendant was represented by James W. Smiley, Esquire, and the State was represented by Shaun Kent, Assistant Solicitor, and Bentley Price, Assistant Solicitor. On January 9, 2003, Defendant was found guilty as indicted. The Honorable Paul M. Burch sentenced Defendant to life.

At the conclusion of the trial, as is reflected on the sentencing sheet, transcript and Order of Dismissal Without Prejudice in Case No.: 2005-CP-10-3570, the Court allowed Mr. Smiley to reserve the right to make post-trial motions at a later date. By way of written motion filed on

February 26, 2014, Tricia A. Blanchette, Esquire, moved to be substituted in as Defendant's counsel. On March 5, 2014, an Order for Substitution of Counsel signed by the Honorable Roger M. Young, Sr., was filed. Thereafter, counsel has been assisting Defendant in the pursuit of newly discovered evidence addressed below and in finding a term of court during which Defendant's post trial motion(s) could be heard by the Honorable Paul M. Burch in Charleston County.

ARGUMENT

A. Rule 29(a), SCRCrimP

Pursuant to Rule 29(a), SCRCrimP, Defendant would move before this Court to renew all matters preserved during the course of his trial on January 6-9, 2003 and would ask this Court to grant a new trial. Specifically but not limited to the following, Defendant would move to renew all arguments, motion, objections and exceptions made at trial:

1. Motions regarding Defendant's prior voluntary manslaughter conviction on the basis of impeachment, Lyle, Rule 404(b), SCRE, and party opponent admission. Trial Transcript pp. 48-50, 71-72, 91-104, 392, 568-9.
2. Motion to exclude the testimony of Maurice Fields and/or for a continuance for time to prepare for his testimony. Trial Transcript pp. 51-56, 361-62, 566. Hearsay objection during Field's direct testimony. Trial Transcript pp. 446-7.
3. Motion to exclude the testimony of Darrell Royal, to address the apparent conflict and/or for a continuance in light of his potential testimony and the conflict it presented for defense counsel. Trial Transcript pp. 60-66, 83-91, 370-376, 410-11, 423-25, 566. Objections to the reading of Royal's statement and introduction, objection to writing sample, objection to introduction of hearsay and admission made by Defendant, hostile witness issues and contempt ruling related to Darrell Royal. Trial Transcript pp. 378-398, 414-18, 428-30, 546, 566-9.
4. Motions regarding photographs, to include Neil v. Biggers motion and testimony regarding identification of Defendant. Trial Transcript pp. 73-80, 287-89, 293-4, 310, 546, 567.

5. Requests, objections and proffer made during the testimony of Edwin Middleton. Trial Transcript pp. 311-336.
6. Objection to hearsay and the use of a prior inconsistent statement during the testimony of Shameika Milligan. Trial Transcript pp. 344-348.
7. Objection to the report used to refresh the memory of Officer Domingo. Trial Transcript pp. 438-440.
8. Directed verdict motion. Trial Transcript pp. 565-67.
9. Requests to charge and exceptions. Trial Transcript pp. 577-78.
10. Objections to State's closing argument. Trial Transcript pp. 596, 599, 602.
11. Motion regarding sleeping juror. Trial Transcript pp. 620-633.
12. Request for jury to hear complete testimony. Trial Transcript pp. 676.
13. Argument regarding imposition of life without parole and notice issue. Trial Transcript p. 687, 690.

B. Rule 29(b), SCRPC

By way of this Motion, Defendant is also alleging after discovered evidence that warrants a new trial. In support of this claim, Defendant has attached an Affidavit of Maurice Fields dated October 25, 2016, and his own Affidavit dated February 7, 2017. 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)); See Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983)).

In State v. DeAngelis, 256 S.C. 364, 371, 182 S.E.2d 732, 735 (1971), the South Carolina

Supreme Court upheld the denial of a motion for a new trial. The Court reasoned:

As is heretofore stated, the appellant did not file his own affidavit setting forth the after-discovered evidence and the facts to which the witnesses will testify. It is essential to the consideration of a motion for a new trial based on after-discovered evidence that such motion shall be supported by an affidavit of the accused himself. Unless a valid and sufficient reason for the omission to file such an affidavit is shown, the affidavit of the accused must show that he did not know of the existence of such evidence at the time of the trial and that he used due diligence to discover such evidence, or that he could not have discovered it by the exercise of due diligence. An affidavit of the appellant's counsel showing these matters is not sufficient. 24 C.J.S. Criminal Law § 1484c, page 286. Chilton v. Commonwealth, 170 Ky. 491, 186 S.W. 191 (Ky. Ct. App. 1916). Nothaf v. State, 91 Tex. Cr. R. 378, 239 S.W. 215, 23 A.L.R. 1374 (Tex. Crim. App. 1922).

The South Carolina Supreme Court has made the role of this Court clear in handling motions made pursuant to Rule 29(b), SCRCrimP. The decision whether to grant a new trial rests within the sound discretion of the trial court, and the appellate court will not disturb the trial court's decision absent an abuse of discretion. State v. Johnson, 376 S.C. 8, 11, 654 S.E.2d 835, 836 (2007); State v. Simmons, 279 S.C. 165, 166, 303 S.E.2d 857, 858 (1983). In State v. Mercer, 381 S.C. 149, 166-67, 672 S.E.2d 556, 565 (2009), the South Carolina Supreme Court has held:

In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment. State v. Porter, 269 S.C. 618, 621, 239 S.E.2d 641, 643 (1977) (noting that the determination of whether new evidence is credible for purposes of a new trial motion rests with the trial court); State v. Deese, 266 S.C. 534, 538, 225 S.E.2d 175, 176 (1976) (noting that the trial court is tasked with assessing the new evidence in a motion for a new trial); State v. Pierce, 263 S.C. 23, 33, 207 S.E.2d 414, 419 (1974) (quoting State v. Mayfield, 235 S.C. 11, 34-35, 109 S.E.2d 716, 729 (1959)) ("The credibility of newly-discovered evidence offered in support of a motion for a new trial is a matter for determination by the circuit judge to whom it is offered. In him, not this court, resides the power to weigh such evidence; and his judgment thereabout will not be disturbed except for error of law or abuse of discretion."). On review, we may not make our own findings of fact. The deferential standard of review constrains us to affirm the trial court if reasonably supported by the evidence.

As a threshold matter, Defendant asks this Court to perform the gatekeeper role described above and hold a hearing to properly make a credibility assessment as to the testimonial evidence offered in support of Defendant's motion for a new trial, which is contained in the Affidavits of Defendant and Fields.

Secondly, Defendant submits that the Affidavit of Fields amounts to a recantation of a key witness for the State regarding admissions of Defendant. Defendant submits that the Affidavit of Fields is material and is not merely cumulative or impeaching due to the role Field's testimony played in Defendant's trial. Trial Transcript pp. 51-56, 442-463. The importance of Fields' trial testimony against Defendant is best demonstrated by a full review of the trial transcript, but the following must be noted:

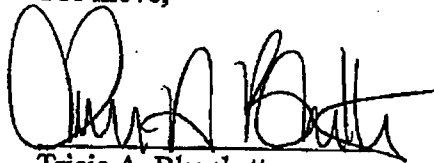
1. Defense counsel moved to exclude the testimony of Fields and/or for a continuance to properly prepare for it before proceeding to trial. Trial Transcript p. 51. The motion was granted in a "qualified" way, which was explained that counsel would be given time during trial to prepare for the testimony of Fields. Trial Transcript p. 56.
2. After being provided discovery regarding grand jury testimony of Fields, counsel conceded that he had been given the two hours requested to review it. He further stated: "I think that there's a lot of investigation that I could do... but I guess at this point that I can't ask for a continuance." Trial Transcript p. 361, ln. 15 - p. 362, ln. 19.
3. Fields testified regarding admissions made by Defendant and stood by his testimony on cross-examination when questioned regarding prior statements, testimony, and his motivation for testifying for the State.

Defendant submits that it is clear that the information contained in the Affidavit of Fields was not known at the time of trial. Defendant further submits that this evidence is newly discovered as is addressed in Defendant's Affidavit.

CONCLUSION

For the above stated reasons, Defendant would respectfully request that this conduct a motion and/or evidentiary hearing and grant a new trial.

I so move,



Tricia A. Blanchette
Attorney for Defendant
Post Office Box 2147
Leesville, South Carolina 29070
(803) 908-3266

March 21, 2017
Leesville, SC



skidmore
investigations

This is a statement from Mr. Maurice Jamil Fields regarding his testimony during the case: State of South Carolina v. Antwon DeAngelo Goodwin. Case No. 02-GS-10-7745, Jury Trial of January 6-9, 2003 before The Honorable Paul M. Burch.

I have known Antwon Goodwin all my life. Antwon Goodwin and my brother are cousins. I lied in court. My brother's cousin, Antwon Goodwin, never busted Mr. Freddie Green in the head. Antwon Goodwin never told me he busted Mr. Green in the head or shot him in the head. The only reason I testified was to protect my family. It was very hard for me to testify on Antwon Goodwin because I knew that I was lying.

The reason I have come forward now is because the government did not take care of my family as they said they would. I feel very bad about lying. I understand that I can be charged with perjury.

WORN to before me this 25 day of Dec, 2016

John A. Skidmore

Notary Public for South Carolina

My Commission Expires: 12/10/2020

Maurice Jamil Fields

Skidmore Investigations

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
State of South Carolina,)
v.)
Antwon Deangelo Goodwin,)
Defendant.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

2002-GS-10-7745


AFFIDAVIT

PERSONALLY appeared before me, Antwon D. Goodwin, who being duly sworn, deposes and says:

1. I am the Defendant in the above captioned case.
2. I affirm that evidence contained in the Affidavit of Maurice J. Fields was not made known to me at the time of my trial.
3. I affirm that I have exercised all possible due diligence to obtain this evidence via Affidavit and that this information has been discovered within the last year.
4. I submit that I would have wanted the information contained in the Affidavit utilized at my trial since it would have directly impacted the outcome of my trial.


Antwon D. Goodwin

SWORN TO before me this 7
day of February, 2017.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 9/16/2020

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

State of South Carolina,)

2002-GS-10-7745

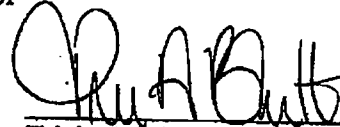
v.)

CERTIFICATE OF SERVICE

Antwon Deangelo Goodwin,)
Defendant.)

I, Tricia A. Blanchette, Attorney for Defendant, hereby certify that I placed in the mail this 27th day of March 2017, a copy of a Motion for a New Trial Pursuant to Rule 29, SCRCrimP, to Scarlett A. Wilson, 9th Circuit Solicitor, at:

Scarlett A. Wilson, 9th Circuit Solicitor
101 Meeting Street, 4th Floor
Charleston, SC 29401



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March 27, 2017

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TRANSCRIPT OF RECORD

1
2 (Whereupon, the proceeding was commenced at 1:38 p.m.)

3 THE COURT: Unless you're handicapped, if you hadn't
4 got enough respect for the judiciary and what the robe
5 stands for, you should stand. I mean, you know, I don't
6 know who you think you're defying. You -- I mean, you may
7 be defying me as a person. But I'm not going to allow you
8 to defy -- defy the robe and what the robe stands for. So
9 let that happen again when we take a break, and we'll see
10 what happens. And if you feel like you can't stand when a
11 judge comes in, the best thing you can do is get out that
12 door.

13 All right. Hopefully, everybody is in that needs to
14 be in. Okay. If we can get the caption on the record,
15 this case is one out of Charleston. And I -- I think the
16 first question I need to pose -- Solicitor, if you'd go
17 ahead and -- and let's get that on the record. And then I
18 got a question for both sides.

19 MR. DURANT: Yes, sir, Your Honor. My name is Bruce
20 DuRant. I'm deputy solicitor for the Ninth Judicial
21 Circuit. Seated at the table with me is my investigator,
22 Jeff Osborne. I'll be representing the state in this
23 proceeding.

24 This is the State of South Carolina v. Antwon Deangelo
25 Goodwin. It is a Charleston County case. The indictment

1 is 2002-GS-10-7745. Mr. Goodwin is being represented by
2 Tricia Blanchette. This is a motion for a new trial filed
3 by Ms. Blanchette based upon Rules 29(a) and (b) of the
4 South Carolina Rules of Criminal Procedure.

5 I believe -- I have a brief response that I had filed
6 to her -- her motion that I would like to hand up to the
7 Court at this time, Your Honor. I don't -- can't remember
8 if I've e-mailed it to you earlier or not.

9 THE COURT: All right. With that said, is there still
10 an issue about a motion to reconsider a sentence, Ms.
11 Blanchette?

12 MS. BLANCHETTE: Yes, Your Honor. The motion that I
13 filed was addressing Rule 29(a), which would be the motion
14 to reconsider or motion for a new trial, as well as a
15 29(b). So we're coming under both prongs today. Does that
16 answer your question?

17 THE COURT: Yes, ma'am.

18 MS. BLANCHETTE: Okay.

19 THE COURT: Give me just a second. All right. Before
20 we get into the -- the merits of this, any jurisdictional
21 problems we need to discuss?

22 MR. DURANT: Not as far as I'm concerned, Your Honor.
23 We would certainly waive venue. And -- and I don't believe
24 there's any question regarding jurisdiction. It was my
25 understanding from your clerk that he was going to -- to

1 obtain an order to -- to get you jurisdiction from the --
2 the Supreme Court. I don't know that that was done or not.
3 But he indicated he would take care of it.

4 MS. BLANCHETTE: That's my understanding as well, Your
5 Honor. The defendant does waive any venue here to Richland
6 County.

7 THE COURT: That is my understanding. I have not
8 asked him if we got confirmation on that.

9 (Whereupon, the Court and law clerk conferred.)

10 THE COURT: Very good. All right.

11 MS. BLANCHETTE: Your Honor, since this is my motion,
12 I was going to begin, unless there were any other matters.

13 THE COURT: You may ---

14 MS. BLANCHETTE: Go ahead?

15 THE COURT: --- proceed.

16 MS. BLANCHETTE: Okay. Your Honor, I just have a
17 brief presentation for you to bring all of us up to speed
18 as to why we were here for a trial that ended in 2003 and
19 fill in those years. Then I have some -- just brief legal
20 cases I'd like to address. And then, I have three
21 witnesses I'll be calling today: Pete Skidmore, who is the
22 private investigator that Mr. Goodwin retained; Maurice
23 Fields, who is the person that gave the affidavit that
24 we're here on the newly discovered evidence; and then, Mr.
25 Goodwin very briefly, Your Honor. Okay?

1 To begin, this case was called to trial on January 6th
2 of 2003 in front of Your Honor in Charleston County. At
3 that time Mr. Goodwin was represented by retained counsel,
4 James Smiley, and the state was represented by Shawn Kent
5 and Bentley Price. On January 9th of 2003, the jury handed
6 down a guilty verdict. Your Honor sentenced Mr. Goodwin to
7 life.

8 And I will hand up at this time, unless Your Honor
9 already has a copy, I have a copy of the motion for
10 substitution of counsel, which outlines a number of these
11 things I'll be addressing from here on out. Does Your
12 Honor need a copy of that?

13 THE COURT: I believe we do on that.

14 MS. BLANCHETTE: Okay.

15 THE COURT: Unless I ---

16 MS. BLANCHETTE: Your Honor ---

17 THE COURT: --- have it here.

18 MS. BLANCHETTE: Your Honor, I also have a copy of the
19 order for substitution of counsel and then, the motion that
20 I filed in this case.

21 THE COURT: Okay.

22 MS. BLANCHETTE: And I can hand those up. Here's the
23 two substitution documents and then, the pending motion.

24 THE COURT: Yeah. Thank you.

25 MS. BLANCHETTE: And, Your Honor, as I outlined in the

1 motion for substitution, which you now have in front of
2 you, and attached to it is page 690 of the transcript. On
3 lines 14 through 16, Mr. Smiley asked to make motions at a
4 later date. And per the transcript, you respond that
5 you'll return in about two weeks and those motions will be
6 heard at that time.

7 The sentencing sheet is also attached to my motion for
8 substitution. And on the sentencing sheet, it specifically
9 states: "Defendant's motions reserved for a later date."

10 Now, on August 31st of 2005, Mr. Goodwin filed a PCR
11 application in Charleston County. He retained Attorney J.
12 Michael Bosnak to assist him with that. And there was a
13 hearing held on August 20th of 2007. I have attached a
14 copy of the order of dismissal without prejudice, issued by
15 Judge Dennis, on that PCR to my motion for substitution of
16 counsel.

17 That hearing -- and this all comes from the order
18 issued by Judge Dennis. That hearing was held on the
19 state's motion for summary dismissal. And it states in the
20 order that the parties agreed that timely posttrial motions
21 had not been presented to the trial court and are still
22 pending for resolution.

23 Also with that was the affidavit of Attorney Smiley
24 from January 2006. This is all attached to my motion for
25 substitution. And in that affidavit he affirms that

1 posttrial motions were reserved for a later date. They had
2 never been set, but he had preserved the transcript for
3 that reason.

4 Again, I attached the order of dismissal without
5 prejudice to my motion for substitution. That was issued
6 September 20th, 2007; filed September 26th of 2007. The
7 outcome of that was it was dismissed without prejudice
8 until posttrial motions and a direct appeal were resolved.

9 I'll jump forward to 2011, because that is when I came
10 into contact with Mr. Goodwin. He actually contacted my
11 office regarding legal representation for a direct appeal.
12 I began contacting Mr. Smiley at that time via phone, e-
13 mail, and letter: (1) trying to obtain permission to speak
14 with his client and to determine what was going on in this
15 matter and if I did need to be filing a direct appeal.

16 In 2012 I was informed, as well as Mr. Goodwin, by Mr.
17 Smiley that he would get the motions heard so I could go
18 forward with a direct appeal in this case. Thereafter, I
19 never got his file or his cooperation. And I do have a
20 copy, if Your Honor would like to review it, of a public
21 reprimand that was handed down against Mr. Smiley in 2014.
22 Would Your Honor like a copy of that?

23 THE COURT: Please. Thank you.

24 MS. BLANCHETTE: In this public reprimand, Mr. Smiley
25 -- it addresses his failure to communicate with clients, as

1 well as his failure to respond to ODC when they were
2 attempting to investigate him. And that was ongoing at the
3 same time that I was attempting to contact him to take care
4 of Mr. Goodwin's outstanding motions in this case.

5 As a final resort in -- on February 26th of 2014, I
6 filed the motion for substitution of counsel that Your
7 Honor has before you. And that was served on the
8 solicitor's office. And I honestly filed that, hoping that
9 at that point, if somebody would tell me that I was wrong
10 in what I was gathering, then maybe the motion had been
11 heard; I would find that out. But that was not the case.

12 On March 5th of 2014, Judge Young signed the order for
13 substitution of counsel, which addressed my efforts in
14 trying to contact Mr. Smiley. And the order from Judge
15 Young said that posttrial motions in accordance -- shall be
16 heard by the trial court in accordance with the PCR order
17 by Judge Dennis that I had already mentioned.

18 At that time I held off on filing a motion because we
19 had become aware of some potential newly discovered
20 evidence. At that point Mr. Skidmore was retained, and I
21 will call the witnesses to go into that for Your Honor.

22 But we then -- I filed the motion that you have in
23 front of you in early 2017 under Rule 29(a) and Rule 29(b).
24 Your Honor, on pages 2 and 3 of the motion, it sets out the
25 grounds, which I'm asking to renew, along with all

1 objections and issues that were preserved at trial. But,
2 Your Honor, I would like to mention that in Rule 29(a) --
3 and it's my understanding the state is going to contend
4 timeliness -- it says: "The time within which to make the
5 motion shall not be affected by the ending of a term of
6 court or departure of the judge from the circuit, and the
7 circuit judge shall retain jurisdiction of the action for
8 the purpose of hearing and disposing of the motion, if not
9 heard and disposed of during the term."

10 So, Your Honor, I would just like to point out that
11 it's my understanding that the Court had not reconvened;
12 Your Honor had not heard this motion at any time. So today
13 I would be timely making his Rule 29(a) motion through our
14 written motion and through this hearing.

15 Your Honor, I will now turn to Rule 29(b) unless you
16 have any questions about the 29(a) section.

17 THE COURT: You may proceed.

18 MS. BLANCHETTE: Your Honor, the second part of our
19 motion deals with Rule 29(b), which is the rule that
20 addresses new trials based on after-discovered evidence.
21 To prevail on this claim, the defendant must show that the
22 after-discovered evidence meets five prongs: (1) is it's
23 such that it would probably change the result if a new
24 trial were granted; (2) it has been discovered since the
25 trial; (3) in the exercise of due diligence, it could not

1 have been discovered prior to trial; (4) is material; and
2 (5) is not merely cumulative or impeaching. And that comes
3 from State v. Spann, State v. Prince, and Hayden v. State.

4 Now, Your Honor, these cases that I will reference are
5 outlined in the -- in the written motion, so I will not go
6 into great detail. I just wanted to hit the highlights of
7 a couple before I presented the witnesses.

8 In State v. DeAngelis, it dealt with a motion for a
9 new trial following a guilty plea. And there, it notably
10 said: "The Courts do not look with favor upon applications
11 for new trials on the ground of after-discovered evidence,
12 as there must be an end to litigation in any case.

13 However, there are cases that motions of this character
14 should be entertained and granted in order that wrongs done
15 may be remedied." And that's what we're asking the Court
16 do to here today.

17 Also, in State v. Mercer, which is addressed in the
18 filed motion, it discusses how Your Honor is the gatekeeper
19 and provides the gatekeeping role in this -- in -- in this
20 proceeding. Mercer specifically states: "The credibility
21 of newly discovered evidence offered in support of a motion
22 for a new trial is a matter for determination by the
23 circuit judge to whom it was offered. In him, not this
24 Court" -- speaking of the appellate court -- "resides the
25 power to weigh such evidence. And his judgment thereabout

1 will not be disturbed, except for an error of law or an
2 abuse of discretion."

3 They went on to say -- addressing the issue of
4 credibility, which was raised in the state's response: "We
5 are sensitive to the notion that a mere finding of a
6 witness's lack of credibility does not complete the
7 analysis. Because a witness may lack persuasive
8 credibility and still create a reasonable doubt." And
9 there, they go on to discuss how the real analysis needs to
10 be whether or not the witness would create a reasonable
11 doubt for the jury.

12 Also, in Johnson v. Catoe, which was a guilty-plea
13 case dealing with a stay of execution that was heard in the
14 original jurisdiction of the South Carolina Supreme Court,
15 there, former Chief Justice Pleicones gave an interesting
16 dissent dealing with this issue of newly discovered
17 evidence. He said: "In my opinion we need not be
18 convinced as an absolute truth -- as an absolute matter of
19 the truth of the new evidence before granting a new trial.
20 We need only find the new evidence worthy of belief."

21 And he went on to quote a case, Arizona v. Fulminante,
22 which is a United States Supreme Court case that says: "A
23 confession is like no other evidence. Indeed, the
24 defendant's own confession is probably the most probative
25 and damaging evidence that can be admitted against him.

1 The admissions of a defendant come from the actor himself,
2 the most knowledgeable and unimpeachable source of
3 information about his past conduct. Certainly, confessions
4 can have profound impact on the jury, so much so that we
5 must justifiably doubt its ability to put them out of its
6 mind, even if told to do so."

7 And why I quoted to that is here, what Mr. Fields
8 testified to at trial and what we'll be discussing today is
9 an alleged confession by Mr. Goodwin to him. And so the
10 impact that that had on the jury had to be profound, Your
11 Honor.

12 Before I call the witnesses, I would just like to
13 mention that under Rule 29(a), there is the ability for the
14 Court to reconsider the sentence. I would ask that upon
15 review of the transcript and the issues raised under the
16 29(a) section of the motion, if this Court does see fit, in
17 the alternative, to grant reconsideration, that would be
18 accepted by the defendant. But we are primarily moving for
19 a new trial today.

20 Your Honor, that's a -- what I had as far as
21 presentation. I'm happy to call my witnesses, unless you
22 would like for the state to respond at this time. I'm ---

23 THE COURT: Any response at this time?

24 MR. DURANT: I -- I could, Your Honor. First of all,
25 I -- I, -- if -- if I could at this time, I would just like

1 to respond to the timeliness of the 29(a) motion.
2 Obviously, the rest of it depends upon how the -- the
3 testimony pans out here today.

4 But as noted by Ms. Blanchette, this jury verdict was
5 on January the 9th of 2003. Mr. Smiley asked if he could
6 reserve motions at a later time. You said: "Sure. I'll
7 be back in two weeks." Okay?

8 I don't know what you meant, but you certainly knew
9 what you meant. And I would assume that you meant that I
10 will hear your posttrial motions when I am back here in two
11 weeks.

12 Not only did you not hear the posttrial motions, Your
13 Honor, they were never filed. And they were never filed in
14 this case until 2017 of this year, under Subsection (a), 14
15 years and 2 months after this conviction. Even though it
16 was in -- the PCR matter came up in 2005; the hearing was
17 in 2007. They were given time to -- to -- not to hear the
18 motions, because the motions hadn't even been filed.

19 From 2007 to 2012, they were never filed. When Ms.
20 Blanchette got in the case in the 2014 officially, they
21 still were not filed in 2017, three years later.

22 I think, clearly, they have missed their ten days
23 under any relief requested under Rule 29(a). And I would
24 ask that that -- that relief be dismissed summarily.

25 THE COURT: All right. I'm going to reserve on that

1 issue and go ahead and let's develop the record on the --
2 all issues -- excuse me. Let's go ahead and develop the
3 record on all issues, and then I'll take it from there.

4 MR. DURANT: Yes, sir.

5 THE COURT: Okay.

6 MS. BLANCHETTE: Thank you, Your Honor. I'm prepared
7 to call my first witness. I call Pete Skidmore to the
8 stand.

9 THE COURT: If you'll come around and be sworn,
10 please.

11 (Whereupon, the witness came forward.)

12 PETER SKIDMORE, having been first duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BLANCHETTE:

16 Q Mr. Skidmore, what is your current profession?

17 A I'm a licensed private investigator in North and South
18 Carolina.

19 Q And were you hired by Mr. Goodwin to assist with
20 investigation in his case?

21 A Yes.

22 Q And do you recall when you were originally hired to
23 assist him?

24 A Sometime in 2014.

25 Q Okay. And was it, in fact, myself and Mr. Goodwin

1 that contacted you about investigating this case?

2 A Yes.

3 Q Okay. And as you were working with myself and Mr.
4 Goodwin, what was it that you first looked into, into this
5 case?

6 A The witnesses that testified in court.

7 Q Okay. And had we -- had you received some information
8 that there was an individual that was willing to talk with
9 you in Charleston and possibly give you more information
10 about the witnesses that had testified?

11 A Yes.

12 Q And did you, in fact, speak with that individual?

13 A I did.

14 Q And as a result of that conversation, who did you
15 speak with next?

16 A After that conversation, I spoke with Maurice Fields.

17 Q Okay. Prior to speaking to Maurice Fields, though,
18 did you talk to another witness from this case?

19 A I did.

20 Q Okay. And who was that first witness that you spoke
21 with?

22 A It -- my mind's just gone blank. I apologize.

23 Q Okay. Did you speak with a witness by the name of
24 Edwin Middleton?

25 A Yes. Mr. Middleton, yes.

1 Q Okay. So after speaking with the contact person in
2 Charleston, Mr. Middleton was the first person you spoke
3 to?

4 A I did, at his employment down by the waterway.

5 Q And what, if anything, came from your interaction with
6 Mr. Middleton?

7 A He said that ---

8 MR. DURANT: Objection: hearsay.

9 MS. BLANCHETTE: I will concede he answered "he said,"
10 Your Honor. I'll rephrase my question.

11 Q Mr. Skidmore, you went and -- as part of your
12 investigation, you went and located Mr. Middleton. What
13 did you do next as part of your investigation as a result
14 of locating him?

15 A I went to try to find Mr. Fields.

16 Q Okay. And why did you make that as the next step in
17 your investigation?

18 A Because of the investigation of the person that I had
19 interviewed led me to Mr. Fields.

20 Q Okay. And who was that person that you first
21 interviewed?

22 A Mr. Middleton.

23 Q Okay. So as a result of speaking with Mr. Middleton,
24 then you went and tried to locate Mr. Fields; is that
25 correct?

1 A That is correct.

2 Q And take us through what you did, as far as trying to
3 locate Mr. Fields and how that went about for you.

4 A I went back to some addresses that I had that were not
5 good and then got information on where he may be employed
6 and went and found that he was employed at that location
7 and waited for him to get off work one afternoon. And we
8 spoke.

9 Q Okay. And take us through what happened after you
10 spoke to him that first time. And then what developed from
11 there?

12 A From there, after he told me what he had told me, with
13 your help, I drew up an affidavit based on what he had told
14 me.

15 Q Okay. And then, did you present that affidavit to
16 him?

17 A Yes. And he signed it.

18 Q Okay. And that affidavit -- you've seen the motion
19 just today. That was the affidavit that was attached to
20 the motion that we filed in this case in 2017; is that
21 correct?

22 A Yes.

23 Q And you obtained that -- that affidavit in 2016. Why
24 was there the delay before filing the motion and going
25 forward, as far as what you know? Why was there a delay?

1 A Based on what Mr. Middleton had told me and what led
2 me to Mr. Fields, I thought that I would be able to
3 continue to interview Mr. Middleton and go further and
4 possibly get another affidavit.

5 Q Okay. And just shortly before filing the motion in
6 2017, did you inform me that you were not going to be able
7 to get an affidavit from Mr. Middleton?

8 A That's correct.

9 Q Okay.

10 MS. BLANCHETTE: Your Honor, if I could beg the
11 Court's indulgence just one moment.

12 THE COURT: Okay.

13 (Whereupon, Ms. Blanchette and the defendant
14 conferred.)

15 Q Mr. Skidmore, I know that you worked on this case from
16 2014 until now. Is there anything further that you would
17 like to add or that you think the Court should consider?

18 A Not off the top of my head ---

19 MS. BLANCHETTE: Your Honor ---

20 A --- other ---

21 Q Oh, go ahead.

22 A Other than, you know, if Mr. Middleton came forth.

23 Q Okay.

24 MS. BLANCHETTE: Your Honor, I have no further
25 questions.

1 MR. DURANT: I just have a couple, Your Honor.

2 THE COURT: Solicitor.

3 CROSS-EXAMINATION

4 BY MR. DURANT:

5 Q When were you retained by the defendant?

6 A Sometime in 2014, probably sometime in the middle of
7 2014.

8 Q And when did you first contact Mr. Maurice Fields?
9 When did you actually sit down and talk to him?

10 A Probably sometime around the latter part of summer of
11 last year.

12 Q Do you have any notes that would reflect exactly when
13 you talked to him?

14 A No, I don't have any notes.

15 Q And what would you be -- be your best guess as to when
16 you actually talked to him?

17 A As I said, sometime in the latter part of the summer
18 of last year, to my best -- my recollection.

19 Q Okay. That'd be 2016?

20 A Yes, sir.

21 Q Okay.

22 MR. DURANT: I have nothing further.

23 MS. BLANCHETTE: Nothing further, Your Honor.

24 THE COURT: You may step down. Thank you.

25 THE WITNESS: Thank you.

1 (Whereupon, the witness exited the witness stand.)

2 MS. BLANCHETTE: Your Honor, I would call Maurice
3 Fields to the stand.

4 THE COURT: Come around and be sworn, please.

5 (Whereupon, the witness came forward.)

6 DIRECT EXAMINATION

7 BY MS. BLANCHETTE:

8 Q And, Mr. Fields, what city and state do you currently
9 reside in?

10 A Say that again?

11 Q What city and state do you currently reside in? Where
12 do you live?

13 A I live in Charleston.

14 Q Okay.

15 A Uh-huh.

16 Q And had you lived there your entire life?

17 A Yeah.

18 Q Okay. And you are here today under subpoena; is that
19 correct?

20 A Uh-huh.

21 Q If you could say "yes" or "no" because Madam Court
22 Reporter ---

23 A Yeah.

24 Q --- can ---

25 A Yeah. Yeah.

1 Q Okay. Okay. She can only take down "yes" and "nos."
2 And also, if we can just be really careful not to talk at
3 the same time so she can just get one of us at one that --
4 at the -- at one time, okay?

5 A Yes.

6 Q Maurice, you've already heard me reference it, because
7 you've been in the courtroom here today, that Mr. Goodwin
8 went to trial in 2003. Do you recall testifying at his
9 trial?

10 A Yeah. Uh-huh.

11 Q Okay. And you've also heard Mr. Skidmore testify, and
12 he referenced the fact that you gave an affidavit in
13 October of 2016. And I will show you a copy.

14 MS. BLANCHETTE: Your Honor, may I approach the
15 witness?

16 THE COURT: Sure.

17 Q Mr. Fields, do you recognize that affidavit, dated ---

18 A Yeah.

19 Q --- October 2016?

20 A Yeah. Uh-huh.

21 Q Okay. And is that your signature there on that
22 affidavit?

23 A Yeah.

24 Q Okay. Mr. Fields, by way of this affidavit, it
25 states: "I have known Antwon Goodwin all my life. Antwon

1 Goodwin and my brother are cousins. I lied in court. My
2 brother's cousin, Antwon Goodwin, never busted Mr. Freddie
3 Green in the head.

4 "Antwon Goodwin never told me he busted Mr. Green in
5 the head or shot him in the head. The only reason I
6 testified was to protect my family. It was very hard for
7 me to testify on Antwon Goodwin because I knew that I was
8 lying."

9 I'd like to unpack your affidavit here a little bit
10 for the judge today, okay?

11 A Yeah. Uh-huh.

12 Q You recall testifying that Mr. Goodwin had admitted --
13 at parts of your testimony, it says "shooting the victim,
14 Freddie Green, in the head; at another point it says
15 "busting him in the head." And you recall testifying to
16 that; is that correct?

17 A Yeah. Uh-huh.

18 Q Okay.

19 A Uh-huh.

20 Q Why did you testify to that if you're saying -- well,
21 let me ask you: Are you saying today that was not the
22 truth?

23 A No. This detective said that.

24 Q Okay. And if you could further explain that for me,
25 why did you testify to that information at Mr. Goodwin's

1 trial in 2003?

2 A That what detective said. I didn't say anything. The
3 detective said that.

4 Q Okay. But in court -- and when the court reporter was
5 taking down your testimony, it's reported that you said it.
6 So why did you get up in court and say that?

7 A I read that off the paper what detectives had.

8 Q Okay. And ---

9 A Uh-huh.

10 Q --- what was your motivation or reason for testifying
11 to that information at trial? Was there a reason that you
12 did it?

13 A No. Unh-unh.

14 Q Okay. Were there any promises to you if you testified
15 in that way?

16 A Yeah. They said they'll move my family to another
17 place or something like that, they say.

18 Q Okay.

19 A Uh-huh.

20 Q Were there any threats made to you if you didn't
21 testify against Mr. Goodwin?

22 A Nah.

23 Q Okay. Is there anything further that you would like
24 to testify about regarding your prior testimony and that
25 you testified that Mr. Goodwin admitted that he shot the

1 victim in the head to you?

2 A But he never admitted that. Never said that.
3 Detective said that.

4 Q Okay. So that never happened?

5 A No.

6 Q Obviously, this trial was back in 2003, and here we
7 are in 2017. Is there any reason you didn't come forward
8 with this information before you talked with Mr. Skidmore?

9 A Nah, no reason.

10 Q Okay.

11 A Unh-unh.

12 Q Did you ever reach out to Mr. Goodwin and try to tell
13 him that you wanted to admit that you were lying?

14 A No. Unh-unh.

15 Q Okay. And was it, in fact, Mr. Skidmore that came out
16 and met with you; is that right? He had to locate ---

17 A Yeah.

18 Q --- you?

19 A Right. Uh-huh.

20 Q Okay. And you're not here voluntarily today; you're
21 here under subpoena?

22 A Right. Uh-huh.

23 Q Okay. Now, when you gave this affidavit, was that of
24 your own free will? Mr. Skidmore didn't make you do that?

25 A No. He ain't made me do nothing. Unh-unh.

1 Q Okay. And you stand by that affidavit?

2 A Yeah. Uh-huh.

3 Q Why is it that you're coming forward with this new
4 information today?

5 A Because y'all came and got me.

6 MS. BLANCHETTE: Your Honor, if I could beg the
7 Court's indulgence just one moment.

8 MR. DURANT: I'm sorry. I didn't hear that last
9 answer, Your Honor.

10 THE COURT: I -- I didn't either.

11 Q Could you repeat your answer, please, why you're
12 coming forward today?

13 A Because y'all came and got me in it.

14 MS. BLANCHETTE: And, Your Honor, now if I could beg
15 the Court's indulgence one moment, please.

16 (Whereupon, Ms. Blanchette and Mr. Skidmore
17 conferred.)

18 MS. BLANCHETTE: Just one more moment, Your Honor,
19 please. Thank you.

20 (Whereupon, Ms. Blanchette and the defendant
21 conferred.)

22 Q Mr. Fields, as far as interaction with myself, we have
23 had one conversation; is that correct?

24 A Uh-huh.

25 Q Okay. And do you recall during that conversation that

1 you informed me that you were on medication at the time of
2 trial?

3 A Yeah. Uh-huh.

4 Q Okay. Would you explain that?

5 A Oxycontin and Neurontins.

6 Q Okay.

7 A Uh-huh.

8 Q And are you under the influence of any medications
9 here today?

10 A Yeah. Uh-huh.

11 Q Okay. And is that medication something that you take
12 regularly, every day?

13 A Uh-huh.

14 Q Okay. And were you on those medications at a
15 different level at the time of trial?

16 A Yeah. Uh-huh.

17 Q Okay. So you were more heavily medicated at the time
18 of trial?

19 A Correct. I had more dosage.

20 Q Okay. And with that said, you understand what you're
21 doing here today; is that correct?

22 A Yeah. I'm miles away from Charleston. Of course.

23 Q Okay. All right. And I've made you no promises or
24 threats or anything of that nature to get you here to
25 testify ---

1 A No.

2 Q --- today?

3 MS. BLANCHETTE: Your Honor, I have no further
4 questions.

5 THE COURT: All right. Solicitor?

6 CROSS-EXAMINATION

7 BY MR. DURANT:

8 Q Mr. Fields, do you recall going in front of a federal
9 grand jury in August of 2002?

10 A Yeah. Uh-huh.

11 Q And when you went in front of that federal grand jury,
12 you put -- just like you did here today, put your hand on
13 the bible, raised your right hand, and swore to tell the
14 truth, didn't you?

15 A Uh-huh. Right. Uh-huh. Yeah.

16 Q And then, in January of 2003, you went in front of --
17 of a judge and jury in Charleston in Mr. Goodwin's trial
18 and put your hand on the bible again and swore to told --
19 tell the truth, didn't you?

20 A Yeah. Uh-huh.

21 Q And you know what the truth is, don't you?

22 A Yeah.

23 Q And you know what not telling the truth under oath is?

24 A Yeah.

25 Q And what is that?

- 1 A And your question?
- 2 Q What is not, telling the truth under oath?
- 3 A Tell me.
- 4 Q Perjury.
- 5 A Okay.
- 6 Q Okay? And you understand perjury is a crime?
- 7 A Okay.
- 8 Q Is that true?
- 9 A (No audible response.)
- 10 Q You know that, don't you?
- 11 A Your question?
- 12 Q You know that perjury is a crime?
- 13 A Yeah, I know. You know that too, ain't it?
- 14 Q Okay. I'm not asking the questions -- I mean, I am;
- 15 you're not.
- 16 Now -- and in front of that federal grand jury and at
- 17 the trial of Mr. Goodwin, you testified, correct?
- 18 A (No audible response.)
- 19 Q Yes or no?
- 20 A What?
- 21 Q You testified in front of that federal grand jury and
- 22 you testified at his trial, did you not?
- 23 A Yeah. Why you keep saying that?
- 24 Q Okay. And what you testified to was this, was it not
- 25 ---

1 A Nah. Unh-unh.

2 Q --- that you've known him your whole life? Correct?

3 A No. That wasn't right there.

4 Q You didn't testify to that in your trial that you've
5 known him your whole life?

6 A Nah.

7 MR. DURANT: Your Honor, I'd like this marked as an
8 exhibit.

9 THE COURT: All right.

10 (Whereupon, State's Exhibit 1 was marked for
11 identification.)

12 MR. DURANT: And for the Court, this is a transcript
13 of Mr. Fields' testimony in the trial of Angelo [sic]
14 Goodwin in January of 2013.

15 Q And I'll refer you to page 445 of the transcript. And
16 you were asked this question: "How long have you known
17 Antwon Goodwin?" And what was your response?

18 A What?

19 Q What's your response? What did you say?

20 A That say "All my life." Of course I know him all my
21 life. You asked me that question before.

22 Q Because you just denied that you knew him all your
23 life. That's why I asked that question.

24 A That been a dumb question.

25 Q And you even told me back then that you were related

- 1 to him, right?
- 2 A Dumb question. You get a dumb answer.
- 3 Q Pardon me?
- 4 A Pardon?
- 5 Q You even told him that you were cousins, right?
- 6 A Uh-huh. Your question of me?
- 7 Q Did you tell and testify in front of the jury that he
- 8 was your cousin and you had known him your whole life?
- 9 A Yeah. He -- of course. Why ---
- 10 Q Okay.
- 11 A --- you keep saying the same thing for?
- 12 Q These are not hard questions.
- 13 A You making it hard.
- 14 Q Now -- and you testified that after the murder of
- 15 Freddie Green, you ran into him ---
- 16 A That's ---
- 17 Q --- on ---
- 18 A --- a lie.
- 19 Q --- Drake Street, did you not?
- 20 A That's a lie.
- 21 Q You didn't testify to that?
- 22 A No. That was a lie.
- 23 Q Did you testify to that?
- 24 A Nope. That was a lie. Y'all write that down. I
- 25 ain't write nothing down. Y'all got it being recorded? I

- 1 didn't write nothing. I ain't record nothing.
- 2 Q I'll refer you to page 448 of the transcript.
- 3 A I don't care if your paper say -- saying ---
- 4 Q What does ---
- 5 A --- what y'all ---
- 6 Q --- what does ---
- 7 A --- write down ---
- 8 Q --- what did you say at the trial?
- 9 A I don't care what that paper say.
- 10 Q It says: "We were standing on Drake Street."
- 11 Correct?
- 12 A That's a lie.
- 13 Q What's ---
- 14 A Y'all said ---
- 15 Q --- a lie? You lying now, or you lying then?
- 16 A Y'all say that, standing on Drake -- I ain't never
- 17 tell nothing ---
- 18 Q Oh. So ---
- 19 A --- like that.
- 20 Q --- the court reporter's lying?
- 21 A Y'all say that. I ain't write that down. Y'all ---
- 22 Q Okay.
- 23 A --- every write on paper.
- 24 Q And because you never said anything, right?
- 25 A Exactly.

- 1 Q The detective said it?
- 2 A Uh-huh.
- 3 Q Correct?
- 4 A Exactly.
- 5 Q And I'm assuming you must've had a script up there;
- 6 and when the solicitor asked you a question, you read the
- 7 answer off the script, right?
- 8 A That's correct.
- 9 Q That's exactly what happened, correct?
- 10 A Yeah. Right off the paper.
- 11 Q That's what ---
- 12 A Right.
- 13 Q --- happened in the trial, correct?
- 14 A (No audible response.)
- 15 Q And that's what happened before the federal grand
- 16 jury?
- 17 A (No audible response.)
- 18 Q Is that your testimony?
- 19 A Nope. That's your testimony.
- 20 Q No. That's your -- that's what you just testified to.
- 21 You read your testimony off a script.
- 22 A (No audible response.)
- 23 Q Did you not just say that?
- 24 A (No audible response.)
- 25 MR. DURANT: I'd direct the -- that -- I'd ask the

1 Court to ask the witness to answer the question, Your
2 Honor.

3 A No. I ---

4 THE COURT: Please -- please respond to the question,
5 please.

6 THE WITNESS: Your question -- what he say?

7 Q Did you not just testify before His Honor that at the
8 trial in this case and at the grand jury, that you just
9 read your testimony off of a script?

10 A That wasn't my testimony. It was what y'all written
11 down for me to read.

12 Q And you read it ---

13 A You get that ---

14 Q --- to the jury ---

15 A --- get that straight. Get that straight. Get that
16 straight.

17 Q And you read it to the jury as you were on the witness
18 stand?

19 A Get that straight. Y'all write that down.

20 Q And you read it to the jury as you were on the witness
21 stand; is ---

22 A I say ---

23 Q --- that your ---

24 A --- y'all write that down. You ---

25 Q Is that ---

- 1 A --- recall that?
- 2 Q --- your testimony, sir?
- 3 A That's y'all testimony. Yeah. That's y'all
- 4 testimony.
- 5 Q That's your testimony?
- 6 A (No audible response.)
- 7 Q Yes or no?
- 8 A I already answered your question, man.
- 9 Q And at the trial and before the grand jury, you said
- 10 that you'd asked him what happened, because you'd heard
- 11 he'd been involved in something. Do you remember that?
- 12 A Nope.
- 13 Q And he said he ran into -- you said that you ran into
- 14 him on Drake Street and asked him what was going on.
- 15 A That's a lie.
- 16 Q So you deny you testified to that?
- 17 A I just lied that -- that been said. Y'all ain't -- I
- 18 ain't say that.
- 19 Q Okay.
- 20 A Y'all saying that shit.
- 21 Q And you ---
- 22 A Excuse me.
- 23 Q --- and he said that he had been beefing with Mr.
- 24 Green and they'd had an argument, and when Mr. Green walked
- 25 off, he busted him in the back of the head?

1 A That's a ---

2 Q Do you ---

3 A --- lie.

4 Q --- remember testifying ---

5 A Y'all saying ---

6 Q --- to that?

7 A --- all that. No. I don't -- nope. Y'all saying ---

8 Q You didn't ---

9 A --- all that now.

10 Q --- testify to that?

11 A No. Y'all saying all that now.

12 Q Okay.

13 MR. DURANT: Your Honor, at this point I would like to
14 make State -- State's Exhibit No. 1 a Court's exhibit as to
15 what he actually did testify to in 2003.

16 THE WITNESS: I mean, y'all ---

17 MS. BLANCHETTE: Your Honor, is ---

18 THE WITNESS: --- write down ---

19 MS. BLANCHETTE: --- that just his testimony from the
20 trial, I assume? I just haven't ---

21 MR. DURANT: That's just ---

22 MS. BLANCHETTE: --- seen ---

23 MR. DURANT: --- his testimony.

24 MS. BLANCHETTE: Your Honor, I have no objection.

25 It's my understanding the Court has a copy of the complete

1 trial transcript that I provided. If not, I have another
2 copy I can provide.

3 THE COURT: I've got it.

4 MS. BLANCHETTE: Okay. Thank you, Your Honor.

5 MR. DURANT: Okay.

6 THE COURT: But -- yeah. You're -- it's in, Court
7 exhibit.

8 Q And -- and when further questioned on what you meant
9 by "busted him in the back of the head," you were referred
10 to your grand jury testimony, where you said that ---

11 A Where you ---

12 Q --- Mr. ---

13 A --- say that.

14 Q --- where you said ---

15 A Y'all detective ---

16 Q --- that ---

17 A Don't talk over me. Y'all detective said that.

18 Q Okay. I -- I understand why you were reading your
19 testimony up there on the stand.

20 A I don't -- they all written down?

21 Q They're all written ---

22 A Because ---

23 Q --- down right there on the stand, and the -- the
24 solicitor would ask you a question. You say, "Excuse me."
25 Let me get to that place on my script and I will read you

1 the answer." Is that correct?

2 A (No audible response.)

3 Q And you were testifying under a plea agreement with
4 the federal government, correct?

5 A (No audible response.)

6 Q Yes or no?

7 A Nope. Because I ain't get no kind of deal.

8 Q Okay. You didn't get any kind of deal. So you deny
9 that you had been facing a minimum -- mandatory-minimum
10 federal sentence of five years at that time and that you
11 ended up getting a sentence of one year and one month
12 because the government filed for a downward departure?

13 A Nope. That's all they're getting.

14 Q So you deny ---

15 A I didn't ---

16 Q --- any of ---

17 A --- get nothing.

18 Q --- that happened?

19 A Yep. I didn't get a ---

20 Q So when you ---

21 A --- damn thing.

22 Q --- testified to all of that in the trial, that was
23 all a lie too?

24 A Yep. I didn't get a damn thing.

25 Q That was all part of the script?

- 1 A (No audible response.)
- 2 Q What were you supposed to get?
- 3 A Nothing for nothing. They ain't get no to nothing.
- 4 Q So your -- your testimony now is that you went in
5 there and lied against him and you got nothing for it?
- 6 A No. The police lied. I ain't lied. Police lied.
- 7 Q Oh, police lied. Okay.
- 8 A Yeah. Detectives.
- 9 Q Okay. And your conscience bothered you so bad about
10 this untruth that you told in this trial that you waited 13
11 years to say something about it, right?
- 12 A It's more to them. They came to find me.
- 13 Q And ---
- 14 A Right?
- 15 Q --- against somebody that you've known all your life?
- 16 A (No audible response.)
- 17 Q That was your cousin?
- 18 A Yeah. I had lost a lot of sleep. You ---
- 19 Q Okay.
- 20 A --- damn right.
- 21 Q And you felt so bad that, of course, you immediately
22 came forward and told the truth?
- 23 A (No audible response.)
- 24 MR. DURANT: Your Honor, I think I'll cut it off right
25 here.

1 THE COURT: All right. Anything further?

2 MS. BLANCHETTE: Very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. BLANCHETTE:

5 Q Mr. Fields, after you signed off on the affidavit --
6 provided the affidavit to Mr. Skidmore, did you have any
7 interaction with anybody from the Charleston County
8 Solicitor's Office? Did any investigators or anyone come
9 pay you a visit?

10 A Yeah. Them two right there.

11 Q And what was your understanding of your interaction
12 with them?

13 A It was not cool. They say they going have fun with
14 me. I ain't know that meant that sexually or what. But
15 they wasn't cool.

16 Q And nevertheless, you did decide to come here today
17 and cooperate with the subpoena you received; is that
18 correct?

19 A That is correct. Uh-huh.

20 MS. BLANCHETTE: Your Honor, I have no further
21 questions.

22 MR. DURANT: Nothing.

23 THE COURT: Well, I've pretty well been patient and
24 held some restraint here. But, sir, I don't appreciate
25 your attitude on the stand and having to use some curse

1 words.

2 THE WITNESS: Excuse me about that, sir.

3 THE COURT: And we won't mention that you're one of
4 the ones that didn't stand when I came into the courtroom,
5 which I've already had a discussion about that.

6 THE WITNESS: I didn't heard the standing. I was
7 nodding off, sir.

8 THE COURT: So I would suggest, if counsel is through
9 with you, that it might be in your best interest that you
10 hit the door and go on back to Charleston or wherever you
11 live.

12 THE WITNESS: You done?

13 THE COURT: Good.

14 (Whereupon, the witness exited the witness stand.)

15 THE COURT: Counsel?

16 MS. BLANCHETTE: Thank you, Your Honor, for your
17 patience and restraint. We greatly appreciate that.

18 I have one further witness, Mr. Goodwin. I would call
19 him to the stand at this time.

20 THE COURT: All right. If he'd come around to be
21 sworn, please.

22 (Whereupon, the witness came forward.)

23 ANTWON GOODWIN, having been first duly sworn,
24 testified as follows:

25

DIRECT EXAMINATION

1
2 BY MS. BLANCHETTE:

3 Q Mr. Goodwin, where are you currently housed?

4 A Broad River Correctional.

5 Q Okay. And you have been incarcerated in SCDC ever
6 since your trial in 2003; is that correct?

7 A Yes, ma'am.

8 Q Okay. Now, I won't rehash all the procedural history.
9 But back in 2003 at your trial, who represented you?

10 A Jim Smiley.

11 Q Okay. And it -- was it your understanding he was
12 continuing to represent you after your trial?

13 A Yes, ma'am.

14 Q Okay. And was it also your understanding that there
15 were some outstanding posttrial motions that he intended to
16 present to Judge Burch at some point on your behalf?

17 A Yes, ma'am.

18 Q Okay. Now, in 2005 you filed a PCR application in
19 Charleston County; is that correct?

20 A Yes, ma'am.

21 Q Why did you file that PCR application?

22 A Because I was under the impression that the posttrials
23 were -- were in motion, but they never were. I even -- I
24 -- I even sent him a -- I got -- I got -- I need to -- I
25 need to get that paper right there.

1 MS. BLANCHETTE: Your Honor, could I provide him a
2 copy of the paperwork he brought with him?

3 THE COURT: Yes, ma'am.

4 MS. BLANCHETTE: Thank you, Your Honor.

5 A Okay. You could repeat these questions, please?

6 Q Yeah. Why did you file the PCR application in 2005?

7 A Because I was under the impression that my posttrial
8 motions were supposed to be heard out, and they never were.

9 Q Now, after ---

10 A And ---

11 Q Oh. Go ahead. I'm sorry.

12 A I -- in 2005 here's a disposition of the posttrial
13 hearing that I filed myself to the Honorable Paul Burch,
14 and they sent it back to me. If you could give him that, a
15 copy -- you can give him this.

16 MS. BLANCHETTE: Your Honor, may I approach the
17 witness again?

18 THE COURT: Yes.

19 MS. BLANCHETTE: Okay.

20 Q Mr. Goodwin, are these documents that you found since
21 you were going through your records recently?

22 A Yes, ma'am.

23 Q Okay.

24 MS. BLANCHETTE: Your Honor, if I could just beg the
25 Court's indulgence one moment.

1 THE COURT: Sure.

2 MS. BLANCHETTE: I greatly appreciate that.

3 Q And, Mr. Goodwin, if you can just clearly identify
4 these for the record, what are these first two documents
5 that I'm handing you here?

6 A This is a motion for disposition of my posttrial
7 hearing.

8 Q And this was something that you were trying to file on
9 your own; is that correct?

10 A Yes, ma'am.

11 Q And where did you send it to?

12 A Mr. Paul Burch to Pageland, South Carolina.

13 Q Okay. To the Honorable Paul Burch is who you
14 addressed that to?

15 A (No audible response.)

16 Q And then, what's this third document that you have
17 there?

18 A This is the -- this is the -- this is the response
19 that say the office is of receipt documents -- he did
20 return it to me because they -- he -- he was not in that
21 district, the ninth circuit -- circuit. So they -- they
22 returned it to me.

23 Q Okay.

24 MS. BLANCHETTE: Your Honor, at this time I would --
25 well, let me first show these to opposing counsel, Your

1 Honor. I apologize.

2 MR. DURANT: Thank you, ma'am. Okay. Thank you.

3 MS. BLANCHETTE: Your Honor, at this time I would move
4 the two-page document, typed and signed by Mr. Goodwin, as
5 defendant's posttrial hearing to be held and the response
6 from Dell Chapman, assistant to Judge Burch, dated January
7 2005, as one exhibit, as Defendant's Exhibit 1.

8 THE COURT: All right. Go ahead. Is there any
9 objection?

10 MR. DURANT: No objection, Your Honor.

11 MS. BLANCHETTE: Your Honor, I apologize. I do not
12 have copies of this document that's provided to the Court.

13 (Whereupon, Ms. Blanchette and the court reporter
14 conferred.)

15 (Whereupon, Defendant's Exhibit 1 was marked for
16 identification.)

17 Q So, Mr. Goodwin, after receiving that response, then
18 in August of 2005, you filed a PCR application; is that
19 correct?

20 A Yes, ma'am.

21 Q Okay. And in 2006 did you retain Mr. Michael Bosnak
22 to assist you with that?

23 A Yes, ma'am.

24 Q Okay. And are you familiar with the order of Judge
25 Dennis from that case that dismissed your PCR without

1 prejudice and found that both parties had agreed that there
2 were timely posttrial motions that needed to be resolved?

3 A Correct.

4 Q So in 2007 it was your understanding that there were
5 still pending timely -- as both agreed at that proceeding,
6 both the state and Mr. Bosnak -- that there were timely
7 motions that had to be resolved? So that was your
8 understanding, correct?

9 A Yes, ma'am.

10 Q Okay. Now, let's fast-forward to 2011, when you
11 contacted my office. What did you do from 2007 until 2011,
12 as far as trying to reach Mr. Smiley to get these motions
13 resolved?

14 A I've been writing letters, making phone calls, and
15 having my family members visit his office, to no avail.

16 Q Okay. Because you had retained the services of Mr.
17 Smiley and then you had retained the services of Mr. Bosnak
18 as well; is that correct?

19 A Yes, ma'am.

20 Q Okay. And do you recall that when you reached out to
21 my office, you thought you needed direct-appeal
22 representation at that point?

23 A Correct.

24 Q Okay. And did you, in fact, ask myself then to start
25 reaching out to Mr. Smiley on your behalf?

1 A Yes, ma'am.

2 Q And do you recall that in 2012, I provided you
3 information that Mr. Smiley was going to see to it that
4 those motions were heard so we could move forward with the
5 direct appeal?

6 A Correct.

7 Q And did that happen?

8 A No, ma'am.

9 Q Then in 2014 did you retain my services to substitute
10 in on these outstanding motions so that you could move
11 forward with your case?

12 A I did.

13 Q Now, you have been incarcerated since 2003 until
14 today; is that correct?

15 A 2002.

16 Q From 2002 until today; is that correct?

17 A Yes, ma'am.

18 Q Okay. Thank you for correcting me on that.

19 Were you wanting these motions to be heard so you
20 could move forward with either getting relief or in the
21 next steps of your case?

22 A Of course.

23 Q Okay. And who were you relying upon in making sure
24 that those motions were heard?

25 A Smiley, at first; then Mr. Bosnak; now you.

1 Q Okay. And you retained my services in 2014. And the
2 state's already pointed out that then I waited until 2017
3 to file the motion. Do you recall that during those times
4 I've actively discussing with you that I did not find a
5 term where Judge Burch was returning to Charleston on the
6 calendar?

7 A Yes, ma'am.

8 Q Okay. And then, did we reach the decision together to
9 reach out to Judge Burch to actually have him schedule this
10 in a different county so we could get the motion heard?

11 A Correct.

12 Q Okay. And, Mr. Goodwin, was there further delay in
13 filing the motion because you became aware of some
14 potential new evidence in your case?

15 A Right.

16 Q Explain to us how you became aware that there may be
17 something that you needed an investigator for.

18 A Through a mutual friend, he told me that ---

19 MR. DURANT: Objection: hearsay.

20 MS. BLANCHETTE: Your Honor, I concede. I -- I will
21 ask another question.

22 THE COURT: Okay.

23 Q Mr. Goodwin, please don't tell us what your mutual
24 friend told you or what he said. You can't say what he
25 said. But what did you do as a result of that

1 conversation?

2 A I hired Mr. Pete Skidmore ---

3 Q Okay.

4 A --- investigator.

5 Q And what did you ask him to look into?

6 A I wanted him to go out to visit some of the witnesses
7 in my case because one of them had some information that
8 they wanted to come forward with.

9 Q And who was your understanding was that witness that
10 wanted to come forward?

11 A Mr. Middleton, Edwin Middleton.

12 Q Okay. And then, as far as -- we're just talking about
13 your understanding, not what somebody else told you. Did
14 Mr. Skidmore locate Mr. Middleton?

15 A He did.

16 Q Okay. And was he able to obtain an affidavit from
17 him?

18 A He didn't.

19 Q Okay. Was he able to locate, as a result of his
20 interaction with Mr. Middleton, another witness?

21 A He did.

22 Q And who was that?

23 A Mr. Fields.

24 Q Okay. And you are aware of the affidavit that he
25 obtained from Mr. Fields in October of 2016?

1 A Yes, ma'am.

2 Q Okay. Now, from October of 2016 to when the motion
3 was filed in the beginning of 2017, why was there some more
4 delay in filing the motion? Was there further
5 investigation going on?

6 A You said from beginning of ---

7 Q From when Mr. Maurice Fields gave the affidavit in
8 October to when the motion was filed in early 2017, was it
9 your understanding there was further investigation going on
10 during that time?

11 A Yes, ma'am.

12 Q Okay. And when it appeared that that investigation
13 was not going to have any further results, did you ask that
14 I go ahead and file the motion on your behalf?

15 A Yes, ma'am.

16 Q Okay. Mr. Goodwin, you're first asking the Court
17 under Rule 29(a) to reconsider your sentence and/or give
18 you a new trial; is that correct?

19 A Correct.

20 Q And you're asking that all the motions, objections,
21 direct verdict, all of the matters preserved by your
22 counsel be preserved via the way of this hearing today; is
23 that correct?

24 A Yes, ma'am.

25 Q Okay. And also, under Rule 29(b), we're asking the

1 Court to consider some new evidence that has been
2 discovered to you in the last year; is that correct?

3 A Yes, ma'am.

4 Q You were here and you heard the testimony of Mr.
5 Fields. And you also have reviewed his affidavit. I want
6 to take you back to the time of your trial. Did you know
7 at the time of your trial that the testimony of Mr. Fields
8 was not the truth?

9 A I did.

10 Q And how did you know that?

11 A It was evident. I mean ---

12 Q But can you explain it for us? How did you know that?

13 A How did I know that he was lying?

14 Q Yes.

15 A Because I knew. Because I -- he -- I mean, I didn't
16 -- I never told him that.

17 Q So you never told him that you busted or shot Mr.
18 Green in the head?

19 A No, ma'am.

20 Q Okay. And that's what you're saying: I never told
21 him that. That's what you're referring to?

22 A Yes, ma'am.

23 Q Okay. And you didn't testify at your trial, did you?

24 A No, ma'am.

25 Q Let's talk a little bit about Maurice Fields

1 testifying at your trial. The beginning of the transcript
2 starts with an actual motion for a continuance and/or
3 suppression of Mr. Fields' testimony because he and -- what
4 your attorney essentially is arguing ---

5 MS. BLANCHETTE: And, Your Honor, the transcript will
6 properly reflect.

7 Q --- is that he was a surprise witness. Was that your
8 understanding?

9 A Yes.

10 Q Okay. And were you aware that he was going to testify
11 against you at your trial?

12 A Not until the day of my trial.

13 Q Did you and your attorney have any opportunity, as far
14 as you know, to investigate him or what his potential
15 testimony was going to be?

16 A No. Because we never -- we -- we never had his -- his
17 complete -- you -- we -- we never had his complete
18 statement or testimony.

19 Q Okay. Were you, as far as you know, ever had the
20 opportunity for an investigator from the defense to talk to
21 Mr. Fields before his testimony?

22 A No, not at all.

23 Q Okay. So prior to your trial, did you have the
24 opportunity to -- to try to investigate and show that Mr.
25 Fields was not telling the truth?

1 A No.

2 Q Now, let's talk about the time that's passed since
3 your trial to now, because you've testified that you knew
4 he wasn't telling the truth. So why did it take until 2016
5 for that to come forward and us file a motion in 2017
6 addressing it? If you knew all along he wasn't telling the
7 truth, why has it taken so long?

8 A Because I -- I -- I -- I -- I could never get in touch with
9 Mr. Smiley to -- to know anything about my case. I never
10 -- I never -- I -- I never spoke to Mr. Smiley since I was
11 convicted.

12 Q And it became known to you in 2014 that Mr. Middleton
13 may want to speak with someone on your behalf; is that
14 correct?

15 A Correct.

16 Q And as a result of that, that's how you found out
17 about Maurice Fields; is that correct?

18 A Pete found out about him. I never knew about -- I
19 never -- I never knew that he wanted to come forward.

20 Q Okay.

21 A I knew that Edwin Middleton wanted to come forward,
22 but I never knew about Maurice.

23 Q Okay.

24 A Until I hired Pete and he went out.

25 MS. BLANCHETTE: Your Honor, if I could beg the

1 Court's indulgence just one moment.

2 THE COURT: Sure.

3 Q Mr. Goodwin, I've already said a couple times today
4 you've been waiting a long time for today to happen. Is
5 there anything else you'd like to inform the Court
6 regarding this motion that has been filed on your behalf?

7 A Just that I know I'm innocent and I was hoping that
8 Pete would -- would've been able to go out and acquire the
9 -- the statement from the other witness. But I don't -- I
10 don't know the exact -- the -- you know, the exact
11 conversation that they had. But, I mean, I'm here.

12 MS. BLANCHETTE: Your Honor, I have no further
13 questions of Mr. Goodwin. Oh, Your Honor, I actually
14 apologize. I just wanted to be clear. I -- I do have one
15 more question. I want to just make sure he understands the
16 relief, for the record.

17 Q Mr. Goodwin, what -- what length of sentence are you
18 serving?

19 A Life.

20 Q Okay. And do you understand we're asking the Court to
21 reconsider and/or grant you a new trial today?

22 A Yes, ma'am.

23 Q And if he determines that it's appropriate to grant
24 you a new trial, you understand you'd be put back in the
25 position you were when you were originally arrested on

1 these charges with no guarantee of less time?

2 A Correct.

3 Q Okay. And knowing that, that is the relief that
4 you're asking the Court for today?

5 A Yes, ma'am.

6 MS. BLANCHETTE: Thank you, Your Honor.

7 THE COURT: Solicitor?

8 MR. DURANT: I just have one question.

9 CROSS-EXAMINATION

10 BY MR. DURANT:

11 Q Do you recall at your trial that when Mr. Smiley made
12 his motion regarding Mr. Fields' testimony, that y'all had
13 been provided with a copy of Mr. Fields' testimony in front
14 of the federal grand jury?

15 A On that particular day, yes. Not ---

16 Q Okay.

17 A --- only -- only on that particular day. That's why
18 he asked for a continuance, because we didn't had none of
19 his testimony or none ---

20 Q Right.

21 A --- of that.

22 Q And after being provided with grand-jury testimony --
23 and Mr. Fields testified at -- at your trial to the same
24 thing he testified to the federal grand jury, correct?

25 A He did.

1 Q Okay. And quite frankly, Mr. Smiley, once he got the
2 grand-jury testimony, he was ready to proceed and withdraw
3 his motion to continue, correct?

4 A No.

5 Q Okay.

6 A He never withdrew.

7 MR. DURANT: That's all I have.

8 MS. BLANCHETTE: Just very briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. BLANCHETTE:

11 Q Mr. Goodwin, do you have a copy of the transcript
12 there in front of you?

13 A Yes, ma'am.

14 Q Okay. Could you flip to page 361? That's actually
15 cited in the filed motion.

16 A (Complied.)

17 Q On page 361 Mr. Smiley begins addressing, on line 15,
18 this issue of being provided the information regarding Mr.
19 Fields. And this goes through page 362, line 19. And
20 specifically, on line 8 he references that he wishes he had
21 more time to look into the people that were involved with
22 all of this, the federal investigation, but he guesses he's
23 ready to move forward. Did you feel confident that your
24 attorney had had adequate time to look into the issue of
25 Mr. Fields' testimony?

1 A No, ma'am. I'm the one who told him to ask for a
2 continuance because we wasn't prepared.

3 Q And there, it does appear he's abandoning that
4 request, but also letting the Court know that he has
5 concerns that he could use more time to look into the
6 individuals involved in the matter.

7 A Right.

8 MS. BLANCHETTE: Your Honor, I have no further
9 questions.

10 MR. DURANT: Nothing further, Your Honor.

11 THE COURT: Mr. Goodwin, I think you -- you testified
12 you're at Broad River? Where are you -- where are you
13 presently incarcerated?

14 THE WITNESS: Broad River Correctional.

15 THE COURT: Okay. All right. That's what I thought I
16 heard. How are you doing out there?

17 THE WITNESS: Not good at all.

18 THE COURT: Okay. How's your health?

19 THE WITNESS: My health is great.

20 THE COURT: Okay. And you hadn't had any problems
21 with discipline or anything?

22 THE WITNESS: Not -- not recently.

23 THE COURT: Okay. And you hadn't been charged with
24 any offenses out there?

25 THE WITNESS: What kind ---

1 THE COURT: As far as criminal offense ---
2 THE WITNESS: Oh. No ---
3 THE COURT: --- you hadn't ---
4 THE WITNESS: --- no, no. No, sir.
5 THE COURT: Okay. Anybody want to ask anything in
6 regards to ---
7 MR. DURANT: Not from me ---
8 THE COURT: --- my questions?
9 MR. DURANT: --- Your Honor.
10 MS. BLANCHETTE: No, Your Honor.
11 THE COURT: Okay. You may step down. Thank you.
12 (Whereupon, the witness exited the witness stand.)
13 MS. BLANCHETTE: Your Honor, that concludes my
14 witnesses. It's my understanding the state wanted to make
15 argument. I just ask that I be able to respond, if that's
16 possible, Your Honor.
17 THE COURT: Sure.
18 MS. BLANCHETTE: Thank you.
19 MR. DURANT: Your Honor, I'd ask that both of these
20 motions under 29 and 29 -- 29(a) and (b) be denied. With
21 regard to 29(a), as I said, I do not believe that the
22 motion was timely made. Even after Ms. Blanchette got
23 involved in the case in 2014, it was still three years
24 before the motion under 29(a) was filed.
25 You're giving -- and the -- the -- the rule gives you

1 ten days. This took 14 years. And I understand that, if
2 the -- if the motion had been filed, we could wait 14 years
3 to have the hearing; that it would be preserved when the
4 motion was filed. But the motion was never filed in this
5 case under 29(a) until January of 2017, three years after
6 Ms. Blanchette became involved in the case.

7 My second ground under 29(a) is I've reviewed the
8 transcript, and I reviewed the Court's ruling. And I'm --
9 it is my humble opinion that the Court reached the correct
10 ruling in all of those motions -- matters brought to the
11 Court's attention under 29(a). And if you haven't, then
12 the appellate -- appellate court can deal with that
13 problem.

14 With regard to 29 -- the motion under 29(b), I don't
15 need to point out to the Court that it's -- this all comes
16 down to the credibility of Maurice Fields: Maurice Fields
17 that has known Mr. Goodwin his whole life; cousins; got an
18 axe to grind with the federal government. He now comes
19 back in here 14 years later and recants his testimony.

20 I would just point Your Honor to State v. Harris:
21 Recantation of testimony ordinarily is unreliable and
22 should be subjected to the closest scrutiny when offered as
23 a ground for a new trial. And without belaboring the
24 point, Your Honor, and with all due respect to Your Honor,
25 if you believe a word that he said on the stand today, I've

1 got some real estate I want to sell you in Florida.

2 Secondly, with regard to the -- the relief requested
3 under 29(b), I do not think that it meets the requirements
4 of State v. Spann because there was other evidence in the
5 record that established this defendant's guilt beyond a
6 reasonable doubt, taken completely separate and apart from
7 Mr. Fields' statement. You had witness that -- witnesses
8 that put him at the scene of the crime, at the time of the
9 crime. You had the testimony of an eyewitness, Edwin
10 Middleton, who testified that he was walking by; he had
11 known both of these people for years; he saw the defendant
12 walk up behind Mr. Green and shoot him in the back of the
13 head.

14 You had the testimony of Mr. Darrell Royal that
15 provided the motive: that he had been beefing with the --
16 with the Green -- Mr. Green and the Fraziers and had made
17 the statement to Mr. Royal that if he caught them first,
18 that he was going to kill them before he killed -- he --
19 they killed him.

20 I know Mr. -- Mr. Darrell Royal denied that at his
21 trial, but he was readily impeached with the previous
22 statement that he made, as was the case with another
23 witness -- I think her name was Shamika Middleton -- to the
24 fact she had given a -- made a statement to the effect that
25 -- that she had been at the Sweet Shop that night and had

1 seen the shooting and had seen the defendant shoot the
2 victim. At her -- at the trial she denied having seen
3 anything. She was also impeached with the previous
4 statement.

5 So there was plenty of evidence in this case, separate
6 and apart from Mr. Maurice Fields, that the jury could've
7 found him guilty beyond a reasonable doubt. And one of the
8 first prongs of -- of -- of Spann is that it would likely
9 change the result at the trial. And I don't believe that
10 this testimony would've changed the result at the trial,
11 especially given the fact that the testimony he provided at
12 the trial had previously been given to a federal grand jury
13 under oath. And even had he taken the stand at the trial
14 and tried to recant that testimony, he would've been easily
15 enough impeached with his federal grand-jury testimony,
16 which is how a lot of the evidence came in, in this case,
17 Your Honor. Because all of them -- all of these people
18 took the stand and wanted to back away from what they said.

19 But they said what they said. And that information
20 came in front of the jury. And the jury, based upon that
21 information, found him guilty beyond a reasonable doubt.

22 And for all of those reasons, we would ask that his
23 motion for relief under 29(a) and (b) be dismissed.

24 THE COURT: All right. Ms. Blanchette?

25 MS. BLANCHETTE: Briefly, Your Honor, because I

1 appreciate your patience when I did the opening at the
2 beginning. I would just like to point out that the
3 transcript and both the sentencing sheet say that motions
4 were reserved for a later date. We have gone through and
5 tried to provide testimony and reason as to why those were
6 not heard.

7 But what I would say is that has been the controlling
8 rule in this case or law of this case ever since Your Honor
9 made that decision back in 2003. Interestingly, at the PCR
10 hearing, as recorded in Judge Dennis' order, the state --
11 that would also be the party represented by Mr. DuRant
12 today -- conceded that there were timely motions pending
13 that needed to be resolved before the PCR could be heard.
14 And that is stated in Judge Dennis's order.

15 So I ask Your Honor to not allow the state in 2007 to
16 put Mr. Goodwin on notice that there's timely motions that
17 need to be resolved and then come in here today and say
18 that's no longer our position, when those motions have not
19 been resolved.

20 And, Your Honor, I'm -- I would just like to ask if
21 you're following my logic there, if you want me to further
22 explain what I was trying to state with that.

23 THE COURT: What was the date of Judge Dennis's order?

24 MR. DURANT: 2007, I believe, Your Honor. I'm ---

25 MS. BLANCHETTE: Yes, Your Honor.

1 MR. DURANT: --- not sure which month it was. But ---

2 MS. BLANCHETTE: Yes. That's attached to the motion
3 for substitution. It was filed September 26th, 2007, and
4 signed September 20th, 2007.

5 And it specifically in -- says in there that he may
6 elect to pursue his direct appeal after those motions are
7 resolved. He has not even had the opportunity to have a
8 direct appeal yet in this case.

9 THE COURT: Okay. Now, where I've got some problem
10 here, Judge Dennis did that in 2007. What actual motions
11 were pending?

12 MS. BLANCHETTE: Your Honor, that's the same problem I
13 had. And I was telling Mr. DuRant earlier, I even went to
14 Charleston in person to see if there was a written motion
15 pending. And I asked him today if he was aware of one.

16 I have not been able to locate one. I just go back to
17 the transcript, where it says motions are reserved for a
18 later date. And then, it appears that everybody, including
19 the state, proceeded on the fact that there would be timely
20 motions heard at some point. And specifically, in this
21 order it says "timely" in the very last paragraph.

22 THE COURT: Even in 2005, with what Mr. Goodwin -- he
23 says defendant motion for posttrial hearing to be held, but
24 there's really not a motion in that.

25 MR. DURANT: That -- that's my whole point, Your

1 Honor. There was -- nothing was actually filed under 29(a)
2 until January of this year. There was nothing for the
3 Court to discern -- to determine until January of this
4 year, when Ms. Blanchette filed the motion.

5 MS. BLANCHETTE: And -- and, you know, you can see by
6 the dates on those letters, once Mr. Goodwin gets the
7 response, he files the PCR where I -- that was the
8 allegation, is Mr. Smiley has been ineffective for not
9 pursuing my case. And that got kicked out by an order
10 saying there's pending timely motions.

11 THE COURT: Who -- who -- if y'all can tell me, who
12 represented to Judge Dennis there were pending motions?

13 MS. BLANCHETTE: Your Honor, unfortunately, this PCR
14 order, where it usually says "applicant was represented
15 by/the state was represented by," it is absent from this
16 order. I could look further into that. I have not been
17 able to make a determination because Mr. Bosnak was not
18 able to help me with that.

19 THE COURT: Okay. All right.

20 (Whereupon, Mr. DuRant and Ms. Blanchette conferred.)

21 THE COURT: Well, in 27 years I haven't had anything
22 like this to come up. This is what we'll do: I'll hold it
23 under advisement. I'm not going to ask for proposed
24 orders, but I would appreciate briefs from both sides that
25 can easily be incorporated into a possible proposed order

1 resolving this.

2 And this question about the PCR -- I don't know where
3 that's going to go. But we'll just have to sort it out.

4 Any questions?

5 (No audible response from counsel.)

6 THE COURT: Try to get -- this thing -- this thing has
7 been going on this long. I certainly will give y'all ample
8 time. And I don't want to rush you, but just some briefs
9 for Mr. Letteer and I to try to come up with something
10 would help us.

11 MS. BLANCHETTE: And, Your Honor, with all candor to
12 the Court and opposing counsel, I've tried to find anything
13 to help further document this road, because I was as
14 confused as I feel everyone may be when Mr. Goodwin first
15 contacted me. If the ---

16 MR. DURANT: Your Honor ---

17 MS. BLANCHETTE: --- state does have any further
18 records, I just ask to be able to, like, supplement ---

19 MR. DURANT: I just don't ---

20 MS. BLANCHETTE: --- or respond.

21 MR. DURANT: I just don't know that there's a whole
22 lot of case law out there to be put in a brief that we
23 haven't already cited to the Court. This is such a -- this
24 is such a -- basically, under the -- under -- under the (a)
25 provision as whether, you know, is it -- is the time tolled

1 before an actual motion is filed? And under the (b)
2 provision is -- is -- basically, it's an issue of
3 credibility.

4 THE COURT: All right. Well, what both of you just
5 told me, I won't put you to that task. If y'all -- I will
6 invite proposed orders from both sides. If I don't get
7 something within 20 days, Mr. Letteer and I will have to

8 ---

9 MR. DURANT: Okay. I'll ---

10 THE COURT: --- come up with something.

11 MR. DURANT: We'll ---

12 THE COURT: Okay?

13 MR. DURANT: We'll try to come up with something as
14 well. And I ---

15 THE COURT: All right.

16 MR. DURANT: --- we'll send it to everybody.

17 MS. BLANCHETTE: And, Your Honor, to be fair, I was
18 talking about any documents, such as if there is a motion.
19 But I am aware of State v. Warren, which was a 2011 case.
20 I have a copy for Your Honor. I can give the cite to
21 opposing counsel that dealt with their -- they had timely
22 filed a motion to withdraw a guilty plea and then tried to
23 later amend it to be a motion for reconsideration and
24 abandoned the motion to withdraw and they found that was
25 untimely; that you couldn't change the nature of the motion

1 under ---

2 THE COURT: They ---

3 MS. BLANCHETTE: --- 29(a).

4 THE COURT: They found what? Say that again?

5 MS. BLANCHETTE: There, the defendant -- it was a
6 female. She had entered a guilty plea and filed a timely
7 motion to withdraw her ---

8 THE COURT: All right.

9 MS. BLANCHETTE: --- guilty plea. Outside of the ten
10 days, filed a motion for reconsideration and abandoned the
11 motion to withdraw. And there, our Court of Appeals found
12 the motion for reconsideration was untimely because it
13 abandoned the original timely motion ---

14 THE COURT: Okay.

15 MS. BLANCHETTE: --- if that ---

16 THE COURT: All right.

17 MS. BLANCHETTE: --- if that makes sense or just
18 further complicates things. But that is the only case that
19 I could find on point, Your Honor. And I'm happy to
20 provide a copy of that.

21 THE COURT: All right. I appreciate y'all working to
22 get this back before the Court. And I much thank you for
23 your ---

24 MR. DURANT: Thank -- thank you ---

25 THE COURT: --- excellent ---

1 MR. DURANT: --- for the ---

2 THE COURT: --- presentations.

3 MR. DURANT: Thank you for working us into your ---

4 THE COURT: Yes.

5 MR. DURANT: --- busy schedule, Your Honor. I
6 appreciate it.

7 MS. BLANCHETTE: Yes. Thank you, Your Honor. Here's
8 a copy of State v. Warren, Your Honor if I may approach.

9 THE COURT: Okay. All right.

10 (Whereupon, the proceeding was concluded at 2:51 p.m.)

11 --- END OF TRANSCRIPT OF RECORD ---

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CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT
COURT FOR CHARLESTON COUNTY, SOUTH CAROLINA, ON THE
31ST DAY OF AUGUST, 2017.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

MAY 23, 2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

JAN 9 9 PH 4: 20

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

JULIE J. ARMSTRONG
CLERK OF COURT

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 OF COURT & P.C.
B. *[Signature]*
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.

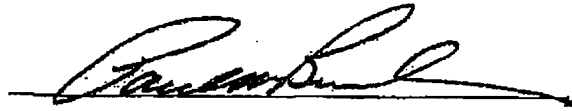
In addition, Maurice Fields testified before a Federal Grand Jury in August of 2002 and at the Defendant's trial in January of 2003 that the Defendant admitted having shot the victim in the back of the head. Even if a new trial was granted and Fields testified that he was untruthful in his previous testimony,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

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

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
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