

SIDNEY FIELDS # 254392 v. STATE OF SOUTH CAROLINA

2016-CP-10-705

ENTIRE LOWER COURT RECORD

PCR APPLICATION / MEMORANDUM IN SUPPORT (filed February 11, 2016)

STATE'S MOTION TO DISMISS (dated October 20, 2016)

CONDITIONAL ORDER OF DISMISSAL (filed November 8, 2016)

PETITIONER'S "RESPONSE" TO CONDITIONAL ORDER (filed November 23, 2016)

FINAL ORDER (filed June 12, 2018)

PETITIONER'S 59(e) MOTION (filed June 29, 2018)

ORDER DISMISSING 59(e) MOTION (filed August 24, 2018)

STATE OF SOUTH CAROLINA

County of CharlestonSidney Fields # 254392

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2016-CP-10-705
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2016 FEB 11 PM 3:05
JULIE J. AMSTRONG
CLERK OF COURTINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Broad River Correctional Inst.
4460 Broad River Rd. Monticello # 234 Columbia, S.C. 29210
2. Name and location of Court which imposed sentence Court Of General Sessions
(Charleston) 100 Broad St. Charleston, S.C. 29401
3. Name(s) of co-defendant(s) (if any) Jerome Deas
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 97-GS-10-5026 (Murder)

- (b) 97-GS-10-5025 (Armed Robbery)
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) November 16, 1998 (Natural Life)
- (b) November 16, 1998 (30 Years)- Run Concurrent
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty *
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. -
- ii. -
- iii. -
- (b) the result in each such Court to which you appealed:
- i. -
- ii. -
- iii. -
- (c) the date of each such result:
- i. -
- ii. -
- iii. -
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. =
- ii. -
- iii. -
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) (Plead Guilty) No direct appeal issues

- (b) _____
(c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
(a) New Evidence Rule Pursuant To S.C. Code Ann. §17-27-45(c)
(b) _____
(c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
(a) See Memorandum Attached
(b) _____
(c) _____
12. Prior to this application have you filed with respect to this conviction:
(a) any petition in a State Court under South Carolina Law? Yes
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? Yes
(d) any other petitions, motions or applications in this or any other Court? Yes
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
(a) the specific nature thereof:
i. (PCR) Application
ii. Federal Habeas Corpus
iii. State Habeas Corpus
iv. Writ Of Mandamus
(b) the name and location of the Court in which each was filed:
i. Common Pleas (Charleston)
ii. U.S. Dist. Court (Charleston)
iii. Common Pleas (Charleston)

iv. Common Pleas (Charleston)

(c) the disposition thereof:

i. Denied

ii. Denied

iii. Denied

iv. Denied

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. -

ii. -

iii. -

(b) the proceedings in which each ground was raised:

i. -

ii. -

iii. -

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented: (See Memorandum Attached)
- (a) New Evidence Rule / S.C. Code Ann. §17-27-45(c)
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
- (b) your trial, if any? -
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? -
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. D. Ashley Pennington / Chas County Judicial Center
- ii. -
- iii. D. Ashley Pennington / Chas County Judicial Center
Jack Cordray (PCR) Application
- (b) the proceedings at which each such attorney represented you:
- i. Plea/Sentence
- ii. (PCR) Application
- iii. _____

19. State clearly the relief you seek in filing this application:

Vacate the conviction and sentence to raise a defense of insanity in a
new trial. (see memorandum attached)

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, Sidney Fields # 254392, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Sidney Fields

SWORN to and subscribed before me this 29
day of January, 2016.

Theresa Montgomery (L.S.)
Notary Public

My Commission Expires: 6/10/2018

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Sidney Fields # 254392, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Sidney Fields
Applicant

SWORN or affirmed to and subscribed before me this

29 day of January, 2016.

Terrance Montasany
Notary Public

My Commission Expires: 6/12/2018

THE STATE OF SOUTH CAROLINA	)	In The Court Of Common Pleas
CHARLESTON COUNTY	)	9th Judicial Circuit
Sidney Fields # 254392	)	Case # 2016-CP-10-705
Applicant.	)	
	)	
V.	)	Memorandum In Support
	)	Of
State Of South Carolina	)	(PCR) Application
Defendant.	)	
_____	)	

FILED
2016 FEB 11 PM 3:05
JULIE J. ARMSTRONG
CLERK OF COURT

Applicant above named is now before this court and has standing therein to present this (PCR) application because there exist evidence of material facts not previously presented and heard that requires vacation of his conviction and sentence in the interest of justice. S.C. Code Ann. §17-27-20(A)(4)

Applicant further asserts that this (PCR) application is being filed under the newly discovered evidence rule which states that if there exist evidence of material facts not previously presented and requires vacation of the conviction or sentence, a (PCR) application can be filed within one year after the date of discovery of the facts by the applicant, or after the date when the facts could have been ascertained by exercise of reasonable diligence. S.C. Code Ann. §17-27-45(c) / Jamison v. State 410 S.C. 456,466, 765 SE2d 123,127-28 (2014)

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Attached Exhibits

- Exhibit 1. Arrest Warrants
2. Indictments
 3. Sentencing Sheet
 4. Notice Of Judgment
 5. Medical Record (drug rehab)
 6. Psychomotor Retardation
 7. Transcript excerpts (guilty plea hearing)
 8. Transcript excerpts (guilty plea hearing)
 9. Transcript excerpts (guilty plea hearing)

II

STATEMENT OF THE FACTS

In October of 1995 applicant entered drug rehabilitation (Rehab) at Roper "North" Hospital in Charleston S.C. for crack cocaine addiction.

On February 27, 1996 applicant entered rehab a second time at the Medical University Of S.C. where he was treated for crack cocaine addiction, anxiety, and having suicidal ideations. **Exhibit 5**

In that same year, applicant subsequently entered drug rehab a third time for crack cocaine addiction, this time at the Charleston county rehab center. After applicant's third rehab treatment, applicant graduated from truck driving school in 1996 and was a professional driver until January of 1997.

On the morning of March 9, 1997 while employed as a cook at the Pagoda Chinese restaurant, applicant took the life of Thomas Chan (co-owner of the restaurant) and took an undisclosed sum of money from the restaurant's office before the restaurant was open for business.

Several hours after the incident, applicant called the police and admitted his involvement in the crime. Applicant also admitted to authorities that he had a crack cocaine addiction. Applicant was subsequently charged and indicted for Murder and Armed Robbery. **Exhibit 1,2**

On November 16, 1998 applicant plead guilty and was sentenced to life imprisonment for Murder and 30 years for Armed Robbery to run concurrent. **Exhibit 3**

After the conviction, applicant submitted several (PCR) applications including a Federal and State Habeas Corpus petition along with other subsequent pleadings that ended on October 8, 2015 in the S.C. Supreme Court. The clerk of court (Charleston County) mailed applicant a notice of the Supreme Court's Judgment on October 13, 2015. **Exhibit 4**

Six months earlier on April 4, 2015 at the behest of the prison mental health counselor, applicant requested his drug rehab records from Medical University in order to receive the name of the anti-anxiety medication that was prescribed to him during his treatment at the hospital in 1996. **Exhibit 5**

In June Of 2015 applicant received the drug rehab records and upon review, the records revealed that applicant not only suffered from a crack cocaine addiction, anxiety and having suicidal ideations, applicant also suffered from Psychomotor Retardation at the time of his treatment at the hospital (one year prior to being charged with murder and armed robbery).

Exhibit 5

This newly discovered evidence that applicant suffered from Psychomotor Retardation at the time of the crime is the bases for this (PCR) application. This memorandum in support of applicant's (PCR) application now follows:

II.

ARGUMENT

AFTER APPLICANT PLEAD GUILTY TO MURDER AND ARMED ROBBERY, APPLICANT IS ENTITLED TO THE VACATION OF HIS CONVICTION AND SENTENCE TO RAISE A DEFENSE OF INSANITY IN A NEW TRIAL WHERE NEWLY DISCOVERED EVIDENCE REVEALED THAT AT THE TIME OF THE CRIME, APPLICANT NOT ONLY WAS SUFFERING FROM A MENTAL DEFECT, THIS MENTAL DEFECT WAS EXACERBATED BY APPLICANT'S DRUG USE CAUSING INSANITY TO BE PERMANENT AND IRREVERSIBLE.

1. Psychomotor Retardation "Defined"

According to Webster's Dictionary, Psychomotor is defined as relating to the motor action that directly proceeds from mental activity. **Webster's Dictionary**

Psychomotor Retardation (also known as psychomotor impairment or motor mental retardation) involves a slowing down of thought and reduction of physical movements in an individual. It also can cause a visible slowing down of physical and emotional reactions including speech. **Exhibit 6**

Furthermore, people who are diagnosed with this condition not only suffer from an impairment of their cognitive functions (which affects a person's awareness and Judgment), it is also commonly seen in people with major depression. As a matter of scientific fact, Psychomotor retardation is a long established component of depression. **Exhibit 6**

That's why people who suffer from Psychomotor retardation often have difficulty in carrying out what are usually considered automatic or mundane self care task such as taking a shower, dressing, self-grooming, cooking, brushing one's teeth and exercising. **Exhibit 6**

Also activities that require little mental effort can become challenging to a person suffering with Psychomotor retardation. That's why the demands of employment and/or school are commonly affected. **Exhibit 6**

2. Psychomotor Retardation In Relation To Drug Use

It is well settled law that voluntary use of drugs cannot be used as a defense to a crime. Even a drug addiction standing alone does not qualify as a mental disease or defect which would support a finding of lack of criminal responsibility unless there is a causal connection between the drug addiction and the mental disease or defect of the accused. **22 CJS Criminal Law §113 (1989)**

In other words, insanity caused by the use of drugs may be a defense where insanity is permanent and destroys a defendant's ability to know right from wrong. **State v. Hartfield** 300 S.C. 469,473, 388 SE2d 802,804 (1990)

Therefore, if a defendant can prove that insanity caused by the use of drugs is permanent and is fixed in character so as to destroy the knowledge of right or wrong, the person laboring under such infirmity will not be held responsible. **22 CJS Criminal Law §113 (1989)**

In the instant case, applicant argues that at the time of the crime, he was suffering from a mental defect that affects the cognitive and emotional functions in human beings (Psychomotor Retardation). **Exhibit 5,6**

And because applicant was a chronic crack cocaine user, applicant's drug use produced permanent and irreversible insanity which affected his ability to distinguish right from wrong. **22 CJS Criminal Law §112 §113 (1989) / State v. Hartfield 388 SE2d at 804 (1990)**

In addition to being diagnosed with Psychomotor Retardation, the psychiatrist at the Medical University Of S.C. concluded that applicant also suffered from anxiety and was monitored for having suicidal ideations. Therefore because of applicant's mental condition coupled with applicant's chronic drug use, applicant no longer viewed reality in a normal or natural way. **Exhibit 5**

At applicant's guilty plea hearing, the solicitor testified that it was not a premeditated crime but one that developed by circumstances, although it's completely applicant's fault. The solicitor further added that applicant called the police to admit to the crime, and that applicant never denied his involvement. **Exhibit 7 ln.4-9**

Following the solicitor's testimony, applicant's counsel testified that applicant's work ethics and the fact that applicant does not have an extensive criminal record shows that applicant did not set out in life to be a criminal offender. However, applicant did develop a chronic problem with drug use which culminated with crack cocaine use. **Exhibit 8 ln.1-11**

Counsel further testified that why would applicant commit such a savage attack on an innocent man, then turn around within hours and called the police to turn himself in. Counsel then gave the opinion that applicant was truly horrified by his own behavior after the fact, but at the time of the crime, applicant thought process was under a drug induced fog. **Exhibit 8 ln.17-25**

Counsel concluded his testimony by stating that at the time of the crime, he believed applicant was thinking of one thing, and that was to try to get some kind of drugs into his system. After the drugs finally cleared out, applicant recognized and was horrified by what happened. **Exhibit 9 ln.9-12**

According to the testimony of applicant's counsel and the solicitor, they were fully aware of applicant's chronic drug use, and the fact that applicant was under the influence of crack cocaine at the time of the crime. However, unbeknownst to counsel and the solicitor, applicant was suffering from a mental defect (Psychomotor Retardation) at the time of the crime. **Exhibit 5**

And since Psychomotor retardation impairs the cognitive and emotional functions in human beings **Exhibit 6**, applicant exacerbated this mental defect by his chronic drug use. This clearly puts applicant at a mental disadvantage to others who use crack cocaine on the same scale as applicant. A person who don't suffer from Psychomotor Retardation but use crack Cocaine on the same scale as applicant, their cognitive functions will be impaired but not as severe as applicant who does suffer from Psychomotor retardation. **Exhibit 5,6**

In an attempt to give the court insight on how crack cocaine affected applicant at the time of the crime, counsel testified at the guilty plea hearing that he received knowledge on the subject by a Medical University Of S.C. Pharmacologist who informed him that when a person takes a large amount of crack cocaine over a short period of time, it's like replacing your normal brain chemicals with whatever drug you are taking. The result is that when the drugs are gone, it produces the worse kind of depression a person can imagine.

Exhibit 9 ln.1-9

Applicant argues that when a person is constantly experiencing this type of severe depression caused by crack cocaine use coupled with the fact that this person already has an underlying mental defect that causes depression and impairs the cognitive functions in human beings to begin with, this is a clear recipe for insanity in which a person laboring under such an infirmity should not be held responsible. 22 CJS Criminal Law §113 (1989)

Therefore it would be unfair for applicant to bare the responsibility relating to the crime in question, because applicant's debilitated mental state caused by drug use deprived applicant of the mental capacity to entertain the necessary specific intent of the offence charged. 22 CJS Criminal Law §113 (1989)

In short, applicant's mental state of mind at the time of the crime was more severe than what counsel and the solicitor knew or testified about. If anything, their testimony about applicant's behavior at the time of the crime is more indicative of someone who is insane than someone who was just simply under the influence of drugs. Exhibit 7 ln.4-9 / Exh 8 ln1-11, ln.17-25 / Exh 9 ln.1-9, ln.9-12

South Carolina has adopted the M'Naghten test as the standard for determining whether a defendant's mental condition at the time of the offence rendered him criminally responsible. State v. South 310 S.C. 504,508, 427 SE2d 666,669

Under this test, a defendant is considered legally insane if at the time of the offence he lacked the capacity to distinguish right from wrong. Id.

Applicant argues that he has presented evidence that because of his drug use, his insanity was permanent and irreversible. State v. Hartfield 378 SE2d at 804 (1990)

Applicant further argues that since he was insane at the time of the crime, he is entitled to present a defence of insanity. State v. Moultrie 322 SE2d 663,664 (1984)

III

CONCLUSION

Applicant finally asserts that the record clearly shows that applicant's Psychomotor Retardation condition was discovered after the guilty plea. And in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea. Jamison v. State 410 S.C. 456,470, 765 SE2d 123,130 (2014)

Secondly, because this new evidence puts applicant's state of mind into question at the time of the crime, this evidence is of such a weight and quality that under the circumstances of this particular case, the interest of justice requires the applicant's guilty plea to be vacated. *Id.*

In other words, applicant has standing to disavow his guilty plea because in the interest of justice, this newly discovered evidence not only out weighs his waiver and solemn admission of guilt encompassed in his guilty plea, this newly discovered evidence out weighs the compelling interest in maintaining the finality of his guilty plea conviction. *Id.*

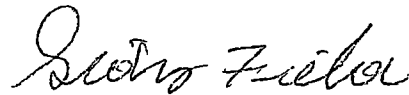
And since applicant's Psychomotor Retardation condition constitutes evidence of material facts not previously presented and heard §17-27-20(A)(4), this (PCR) application cannot be held as being successive. Tilley v. State 334 S.C. 24, 511 SE2d 689 (1999)

Therefore this matter requires that an evidentiary hearing be held on the merits of applicant's claim. Coats v. State 352 S.C. 500, 575 SE2d 557,559 (2003)

Wherefore, applicant Sidney Fields now pray that this Honorable court vacate his conviction and sentence to raise a defence of insanity in a new trial because new evidence shows applicant not only was suffering from a mental defect at the time of the crime, but this mental defect was exacerbated by applicant's drug use causing insanity to be permanent and irreversible.

2

Respectfully Submitted,



Sidney Fields # 254392

B.R.C.I. 4460 Broad River Rd.

Monticello # 234

Columbia, S.C. 29210

Date February 3, 2016

ARREST WARRANT

F- 022334

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
MOUNT PLEASANT

 THE STATE
against

SIDNEY DARNELL FIELDS

 Address: Westway Drive
James Island SC 29412
Phone: 795-2642 SSN: [REDACTED]Sex: M Race: B Height: 5'11 Weight: 170DL State: SC DL #: [REDACTED]DOB: [REDACTED] 65 Agency ORI #: [REDACTED]Prosecuting Agency: MPPDProsecuting Officer: CATLETT/REGISTEROffense: MURDER
 Code/Ordinance Sec. 16-3-10 Offense Code: [REDACTED]

 This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

 The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____

RETURN

 A copy of this arrest warrant was delivered to
defendant _____
on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
MOUNT PLEASANT)

AFFIDAVIT

 Personally appeared before me the affiant MEREDITH CATLETT, DET.
being duly sworn deposes and says that defendant SIDNEY DARNELL FIELDS
did within this county and state on 03/09/97 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of MOUNT PLEASANT)
in the following particulars:

DESCRIPTION OF OFFENSE:

MURDER

 I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

 EXHIBIT 1
pg 1 of 4

 Sworn to and subscribed before me)
on 03/09/97)

 Signature of Issuing Judge (L.S.)
LAWRENCE J. DUFFY, JR.

 STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
MOUNT PLEASANT)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
on 03/09/97 defendant SIDNEY DARNELL FIELDS
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of MOUNT PLEASANT) as set forth below:

DESCRIPTION OF OFFENSE:

MURDER

 Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.

 Judge's Address 100 ANN EDWARDS LANE
MT PLEASANT SC 29464
Signature of Issuing Judge (L.S.)
LAWRENCE J. DUFFY, JR.

Judge Code: _____

Judge's Telephone 884-6796Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

OCA # 97005708

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, a municipal judge, one DET. MEREDITH CATLETT
(affiant)

who, first being duly sworn, deposes and says that SIDNEY DARNELL FIELDS did, within
(defendant)

the Town of Mount Pleasant, County of Charleston, State of South Carolina, on or about MARCH 09, 1997, violate the criminal laws of the Town of Mount Pleasant, State of South Carolina, namely, MURDER at the following location, PAGODA RESTAURANT, 1035 JOHNNIE DODDS BLVD., MT. PLEASANT, in Violation of Section, 16-3-10 of the South Carolina Code of Laws of 1976, as amended. The Affiant states that there is probable cause to believe that the Defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

That on March 09, 1997 at approximately 1030 hours, the complainant, Irene Chan, reported to the Mount Pleasant Police Department that her husband/victim, Thomas Chun Tong Chan had been stabbed numerous times about the neck and body at the aforesaid location.

That the said victim did die of such mortal wounds on 03/09/97.

That the defendant, Sidney Darnell Fields, after being advised of his Miranda Rights and signing a waiver of those rights, provided Det. Meredith Catlett and Det. Stuart Register with a signed written confession that he did kill the victim and unlawfully take an undetermined amount of money from the aforesaid location.

The affiant is witness to prove the same in such case as made and provided against the peace, and dignity of the State of South Carolina.

Det. Meredith Catlett
AFFIANT

Sworn to and Subscribed before me
this 9th day of March
1997.

100 Ann Edwards Lane
Mt. Pleasant, SC 29464
884-4176

[Signature]
Signature of Judge

EXHIBIT 1
pg 2 of 4

Assistant

RULE 3

REST WARRANT

F- 022333

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
MOUNT PLEASANTTHE STATE
against

SIDNEY DARNELL FIELDS

Address: Westway DriveJames Island South Carolina 29412Phone: 795-2642 SSN: [REDACTED]Sex: M Race: B Height: 5'11 Weight: 170DL State: SC DL #: [REDACTED]DOB: [REDACTED] Agency ORI #: [REDACTED]Prosecuting Agency: MPPDProsecuting Officer: CATLETT/REGISTEROffense: ARMED ROBBERYOffense Code: [REDACTED]
Code/Ordinance Sec. 16-11-330

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to law._____
Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant _____
on __________
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
MOUNT PLEASANT)

AFFIDAVIT

Form 100-10
SC 100-10
July 1, 1990
SCCA 518Personally appeared before me the affiant DET. MEREDITH CATLETT who
being duly sworn deposes and says that defendant SIDNEY DARNELL FIELDS
did within this county and state on 03/09/97 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of MOUNT PLEASANT)
in the following particulars:

DESCRIPTION OF OFFENSE:

ARMED ROBBERY

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

EXHIBIT 1
pg 3 of 4

Sworn to and subscribed before me)

on 03/09/97)_____
(L.S.))

Signature of Issuing Judge)

LAWRENCE H. DUFFY, JR.)_____
(L.S.))STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
MOUNT PLEASANT)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 03/09/97 defendant SIDNEY DARNELL FIELDS
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of MOUNT PLEASANT) as set forth below:

DESCRIPTION OF OFFENSE:

ARMED ROBBERY

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable._____
(L.S.))

Signature of Issuing Judge)

(L.S.))Judge's Address 100 ANN EDWARDS LANEMT PLEASANT SC 29464Judge's Telephone 884-6796Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

DEFENDANT COPY

OCA # 97005708

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, a municipal judge, one DET. MEREDITH CATLETT
(affiant)

who, first being duly sworn, deposes and says that SIDNEY DARNELL FIELDS did, within
(defendant)

the Town of Mount Pleasant, County of Charleston, State of South Carolina, on or about MARCH 09, 1997, violate the criminal laws of the Town of Mount Pleasant, State of South Carolina, namely, ARMED ROBBERY at the following location, PAGODA RESTAURANT, 1035 JOHNNIE DODDS BLVD., MT. PLEASANT, in Violation of Section, 16-11-330 of the South Carolina Code of Laws of 1976, as amended. The Affiant states that there is probable cause to believe that the Defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

That on March 09, 1997 at approximately 1030 hours, the complainant, Irene Chan, reported to the Mount Pleasant Police Department that her husband/victim, Thomas Chun Tong Chan had been stabbed numerous times about the neck and body at the aforesaid location.

That the said victim did die of such mortal wounds on 03/09/97.

That the defendant, Sidney Darnell Fields, after being advised of his Miranda Rights and signing a waiver of those rights, provided Det. Meredith Catlett and Det. Stuart Register with a signed written confession that he did kill the victim and unlawfully take an undetermined amount of money from the aforesaid location.

The affiant is witness to prove the same in such case as made and provided against the peace, and dignity of the State of South Carolina.

Det. Meredith Catlett
AFFIANT

Sworn to and Subscribed before me
this 9th day of March
1997.

100 Ann Edwards Lane
Mt. Pleasant, SC 29464
884-4176

[Signature]
Signature of Judge

EXHIBIT 1
pg 4 of 4

RULE 5

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

CATLETT, MPPD

97005708

Binn

ARREST WARRANT NUMBER

F 022334

MARCH 10, 1997

ACTION OF GRAND JURY

TRUE BILL

Karen E. Thores
Foreperson of Grand Jury

AUG 01 1997

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

AUGUST TERM 1997

THE STATE

vs.

SIDNEY DARNELL FIELDS

I APPEAR IN PERSON AND PLEAD GUILTY
TO THE WITHIN INDICTMENT.*x Sidney Fields*WITNESS *Michael J. ...* DATE *7/16/97*

Indictment for

MURDER

EXHIBIT 2
pg 1 of 4

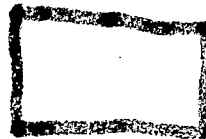
MAX SENTENCE - Life in prison

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on August 4, 1997 the Grand Jurors of Charleston County present upon their oath:

That Sidney Darnell Fields did in Charleston County on or about the 9th day of March, 1997, feloniously, willfully and with malice aforethought murder Thomas Chun Tong Chan, to wit: did repeatedly strike the victim, Thomas Chun Tong Chan with a meat cleaver, and that Thomas Chun Tong Chan did die in Charleston County as a proximate result on or about March 9, 1997. 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

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on August 4, 1997 the Grand Jurors of Charleston County present upon their oath:

That Sidney Darnell Fields did in Charleston County on or about the 9th day of March, 1997, feloniously, willfully and with malice aforethought murder Thomas Chun Tong Chan, to wit: did repeatedly strike the victim, Thomas Chun Tong Chan with a meat cleaver, and that Thomas Chun Tong Chan did die in Charleston County as a proximate result on or about March 9, 1997. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

EXHIBIT 2
pg 2 of 4

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


ASSISTANT SOLICITOR

WITNESSES

JOHN BURNETT AND/OR

LEITH HAIR

ATLETT, MPPD

7005708

Binn

100
101

ARREST WARRANT NUMBER

F 022334

MARCH 10, 1997

ACTION OF GRAND JURY

TRUE BILL
Dawn E. Thowles
Person of Grand Jury

VERDICT

Person of Petit Jury

Date:

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

AUGUST TERM 1997

THE STATE

vs.

SIDNEY DARNELL FIELDS

I APPEAR IN PERSON AND PLEAD GUILTY
TO THE WITHIN INDICTMENT.

x Sidney Fields

WITNESS

DATE 1/16/98

Michael J. [Signature]

Indictment for

MURDER

MAX SENTENCE - Life in prison

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

CATLETT, MPPD

97005708

Ginn

ARREST WARRANT NUMBER

F 022333

MARCH 10, 1997

ACTION OF GRAND JURY

TRUE BILL

Karen E. Throner
Foreperson of Grand Jury

AUG 05 1997

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 97-GS-10- 5025

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

AUGUST TERM 1997

THE STATE

vs.

SIDNEY DARNELL FIELDS

Indictment for

ARMED ROBBERY

Name Sidney Darnell Fields
Address [REDACTED] Westway Drive
Charleston, S.C. Zip 29412
Race B Sex M
Date of Birth [REDACTED] Age 33
SSN [REDACTED]
Attorney D. Ashley Pennington

I APPEAR IN PERSON AND PLEAD GUILTY
TO THE WITHIN INDICTMENT.*x Scobie Fields*

WITNESS [Signature] DATE 8/14/97

EXHIBIT 2
pg 3 of 4

MAX SENTENCE - 30 years in prison

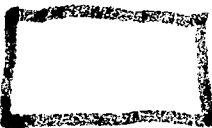
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
ARMED ROBBERY

At a Court of General Sessions, convened on August 4, 1997 the Grand Jurors of Charleston County present upon their oath:

That Sidney Darnell Fields did in Charleston County on or about the 9th day of March, 1997, while armed with a deadly weapon, a meat cleaver, feloniously take by means of force or intimidation, goods or monies from the person or presence of Thomas Chun Tong Chan, such goods or monies being described as: United States currency belonging to the Pagoda Chinese Restaurant located at 1035 Johnnie Dodds Boulevard, Mount Pleasant, South Carolina. This is in violation of §16-11-330 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

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT FOR
ARMED ROBBERY

At a Court of General Sessions, convened on August 4, 1997 the Grand Jurors of Charleston County present upon their oath:

That Sidney Darnell Fields did in Charleston County on or about the 9th day of March, 1997, while armed with a deadly weapon, a meat cleaver, feloniously take by means of force or intimidation, goods or monies from the person or presence of Thomas Chun Tong Chan, such goods or monies being described as: United States currency belonging to the Pagoda Chinese Restaurant located at 1035 Johnnie Dodds Boulevard, Mount Pleasant, South Carolina. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

EXHIBIT 2
pg 4 of 4

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



ASSISTANT SOLICITOR

WITNESSES

HN BURNETT AND/OR

ITH HAIR

PLETT, MPPD

05708

John

ARREST WARRANT NUMBER

F 022333

MARCH 10, 1997

ACTION OF GRAND JURY

TRUE BILL

John E. Thowler
Person of Grand Jury

VERDICT

Person of Petit Jury

Date:

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

AUGUST TERM 1997

THE STATE

VS.

SIDNEY DARNELL FIELDS

Indictment for

ARMED ROBBERY

Address *Westway Drive*
Charleston, S.C. Zip *29412*
Race *B* Sex *M*
Date of Birth *[REDACTED]* Age *33*
SSN *[REDACTED]*
Attorney *D. Ashley Pennington*

I APPEAR IN PERSON AND PLEAD GUILTY
TO THE WITHIN INDICTMENT.

Sidney Darnell Fields

WITNESS *[Signature]* DATE *11/16/97*

MAX SENTENCE - 30 years in prison

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SENTENCE

GENERAL SESSIONS COURT

Murder

NEGOTIATED SENTENCE ☒

RECOMMENDATION BY THE STATE ☐

CASE NO. 97 -GS-10- 5024

TICKET/WARRANT NO. F022334

Date of Incident: _____

Statute No. _____

The defendant, Sidney Darnell Fields is committed to the State Dept. of
Corrections/County Detention Center/Under Youthful Offender Act for a term of the balance
OF HIS NATURAL LIFE. 1 days/months/years

and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days

months/years and/or pay a fine of \$ _____ plus pay costs and assessment as applicable, the balance

suspended with probation for _____ months/years. ☐ Credit Time Served _____

Special Conditions: ☐ PTUP ☐ _____ days/hours Public Service Employment

☐ Obtain GED or Diploma ☐ Attend Voc. Rehab or Job Corps

☐ Substance Abuse Counseling ☐ Random Drug/Alcohol Testing

Other: _____

Concurrent with: _____ Consecutive to: _____

Restitution total x 3% \$ _____ Amount Weekly/Monthly \$ _____

Public Defender Fund \$ _____

Date: Nov. 16, 1998.

J. L. Hyatt, Jr.
Resident/Presiding Judge, Ninth Judicial Circuit

INFORMATION ON DEFENDANT

Age: 33 Race: B

S.S. No. _____

Date of Birth: _____ M ☒ F ☐

Attorney: D. A. Hester (RD)

Solicitor: Chuchell

Court Reporter: A. Mole

Fine	\$ _____
Cost & Assessment(100%)	\$ _____
Conviction Surcharge*	\$ <u>100.00</u>
TOTAL	\$ _____
County(3%)	\$ <u>3.00</u>
DUI Fee (if applicable- \$12)	\$ _____
GRAND TOTAL	\$ <u>103.00</u>

*Applies to all charges except DUS.

ALL PAYMENTS MUST BE MADE BY CASH, MONEY ORDER OR
CASHIER CHECK. WE CANNOT ACCEPT PERSONAL CHECKS.

CLERK OF COURT
2144 MELBOURNE AVE RM. 117
CHARLESTON, SC 29405

STATE OF SOUTH CAROLINA

SENTENCE

GENERAL SESSIONS COURT

ARMED Robbery

COUNTY OF CHARLESTON

NEGOTIATED SENTENCE ☐

RECOMMENDATION BY THE STATE ☐

CASE NO. 97-GS-10-5025

TICKET/WARRANT NO. F022333

Date of Incident: _____

Statute No. _____

The defendant, Sidney Daniel Fields is committed to the State Dept. of

Corrections/County Detention Center/Under Youthful Offender Act for a term of thirty 30 years

and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days

months/years and/or pay a fine of \$ _____ plus pay costs and assessment as applicable, the balance

suspended with probation for _____ months/years. ☐ Credit Time Served _____

Special Conditions: ☐ PTUP ☐ _____ days/hours Public Service Employment

☐ Obtain GED or Diploma ☐ Attend Voc. Rehab or Job Corps

☐ Substance Abuse Counseling ☐ Random Drug/Alcohol Testing

Other: _____

Concurrent with: 97-GS-10-5026, Consecutive to: _____

Restitution total x 3% \$ _____ Amount Weekly/Monthly \$ _____

Public Defender Fund \$ _____

Date: Nov. 16, 1998

J.L. Hyatt
Resident/Presiding Judge, Ninth Judicial Circuit

INFORMATION ON DEFENDANT

Age: 33
S.S. No. [REDACTED]
Date of Birth [REDACTED] M [REDACTED] F [REDACTED]
Attorney: D. Wesley Pennington (PD)
Solicitor: Churchill
Court Reporter: A. Mole

Fine \$ _____
Cost & Assessment(100%) \$ _____
Conviction Surcharge* \$ 100.00
TOTAL \$ _____
County(3%) \$ 3.00
DUI Fee (if applicable- \$12) \$ _____
GRAND TOTAL \$ 103.00

*Applies to all charges except DUS.

ALL PAYMENTS MUST BE MADE BY CASH, MONEY ORDER OR CASHIER CHECK. WE CANNOT ACCEPT PERSONAL CHECKS.

CLERK OF COURT
2144 MELBOURNE AVE. RM. 117
CHARLESTON, SC 29405

JULIE J. ARMSTRONG

CLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258

RETURN SERVICE REQUESTED



clerkofcourt.charlestoncounty.org

50



SIDNEY FIELDS
B.R.C.I.
4460 BROAD RIVER RD
COLUMBIA SC 29210-4012

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

Order/Fr Supreme Crt-pet for writ of certiorari is denied

CASE NO: 2014CP1000305

Sidney Fields VS South Carolina State of

This judgment was entered on the 13th day of October, 2015, and notice mailed first class on Wednesday, October 14, 2015, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.

EXHIBIT 4

pg 1 of 1



Health Information Services

169 Ashley Avenue
MSC349
Charleston SC 29425-3490
Tel 843 792-3881
Fax 843 792-5460
www.musc.edu

Room 269

Date: 4/28/2015

Your Reference #:

Patient: S. F.

ROI #:

EXHIBIT 5
pg 1 of 5

Attention:

Thank you for your request dated 4/13/2015 and received 4/17/2015 for medical record information on the above-named patient. We are unable to submit the requested information at this time, due to the following reason (s):

Please submit a HIPAA compliant Authorization to Disclose Protected Health Information.

A blank authorization has been included for your convenience.

We apologize for any inconvenience or delay this may cause you.
Please feel free to contact us with any questions at 843-792-3881.
Sincerely,

Release of Information Department
Health Information Services
Medical University of South Carolina

INVOICE



SIDNEY FIELDS #254392/B.R.C.I.

4460 BROAD RIVER ROAD
MONTICELLO #234
COLUMBIA, SC 29210



EXHIBIT 5
pg 2 of 5

Invoice #: 32001359

Inv. Date: 6/1/2015

Due Date: 6/11/2015

Terms: Net 10

Patient: FIELDS, SIDNEY
Account #: 4299615
Claim/File #:

Shipping:
4460 BROAD RIVER ROAD
MONTICELLO #234
COLUMBIA, SC 29210

Facility: MEDICAL UNIVERSITY OF SOUTH CAROLINA

Description	Quantity	Unit Price	Extension
* Note: Hard Copy Page Count: 14	14	\$0.00	\$0.00
Copy Charge \$0.00 Per Page, Pages 1-20	14	\$0.00	\$0.00

Product Total:	\$ 0.00	
Postage:	\$ 0.00	
State Tax:		6.00%
City/local Tax:		1.00%
Sales Tax:	\$ 0.00	(7.00%)
Grand Total:	\$ 0.00	
Credits/Payments:	\$ 0.00	
Amount Due:	\$ 0.00	PAID IN FULL

Please Note: This information has been disclosed to you from records that may be protected by state and federal confidentiality rules (42 CFR, part 2). The federal rules prohibit you from making any further disclosure of protected information unless further disclosure is expressly permitted by written consent of the person to whom it pertains, or is otherwise permitted by 42 CFR, part 2.

Payment Options:

- Use your credit card online at payportal.iodincorporated.com
- Use your credit card by phone at 866-420-7455 Option 1
- By mail; please include the payment sheet (page 2) with your check to ensure that your payment is properly applied!

In an effort to improve the quality of our service we are seeking your feedback. The survey should take no more than five minutes to complete. Please complete the survey at www.iodincorporated.com/Survey/Roi and thank you in advance for your time and input.

iod incorporated TaxID No. 65-0765287
PO Box 19072, Green Bay WI, 54307-9072
Phone: 866-420-7455 Option 1 * Fax: 920-406-6537



MUSC MEDICAL CENTER
MEDICAL RECORDS
(803) 792-3881

MEDICAL UNIVERSITY OF SOUTH CAROLINA
171 Ashley Avenue
Charleston, SC 29425-0768

HOSPITAL DISCHARGE SUMMARY

FIELDS, SIDNEY
MRN # 000909538
Admitted: 02/27/96
Discharged: 03/02/96
Service: Psychiatry
Attending: Walter Hiott, M.D.
Referring: Terry Timmons, CDAP

EXHIBIT 5
pg 3 of 5

DISCHARGE DIAGNOSIS: Axis I: 1) Cocaine dependence
 Axis II: Deferred
 Axis III: None
 Axis IV: Severe
 Axis V: 30

PROCEDURES: None

HISTORY OF PRESENT ILLNESS: This patient is a 30 year old black male who presented with a ten year history of cocaine dependence whose last use was the night. Approximate use per month is \$700 of cocaine. History includes use of cocaine in powder form, approximately 8 grams per day for 7 years, then use of crack cocaine at approximately \$700 to \$1000 per month the past three years. The patient switched to crack cocaine because he states it gave him a better high and made him feel more confident. The patient was admitted for suicidal ideation on 02/27/96. He stated he had thoughts of suicide over the past ten years and reports being "really depressed" after the cocaine wears off. He states that his dependence on crack has caused him to have low self esteem and he is very ashamed of his use. His longest period of sobriety was approximately six months when he lived in Jacksonville, Florida from July, 1991 until 1993 at which time he moved back to Charleston, South Carolina. He recently stopped using crack for approximately 35 days prior to a urine drug screen for truck driving school. He denies use of alcohol, marijuana or tobacco. He denies auditory/visual hallucinations. The patient is able to contract for safety.

PAST PSYCHIATRIC HISTORY: The patient was enrolled in the Pergolide study 2-3 months ago, but dropped out. He was hospitalized at Roper North in October, 1995 and stayed three days to be detoxed.

PAST MEDICAL HISTORY: No hospitalization, surgery or past medical illness.

DEVELOPMENTAL HISTORY:

MEDICATIONS/ALLERGIES: No known drug allergies. Medications - the patient was in the Pergolide study through Roper North.

FIELDS, SIDNEY
Discharge Summary

EXHIBIT 5

pg 4 of 5

MRN# 000909538
Page 2

FAMILY HISTORY: Mother died in 60's of kidney failure. Father had no alcoholism. He had two brothers on dialysis.

SOCIAL HISTORY: The patient completed the 10th grade and has 4 brothers and 2 sisters. He currently lives with his father. He previously cooked at the Great Wall of China and has been attending truck driving school with graduation plans of April, 1996. He denies physical or sexual abuse and reports a good relationship with his family. He denies alcohol use and has not smoked tobacco for five years. Using crack at \$700 to \$1000 per month over the past three years and cocaine using 8 grams per day for 7 years.

MENTAL STATUS EXAMINATION: This is a mildly disheveled black male who is cooperative with mild psychomotor retardation. His speech has slight decrease in rate and tone and his mood is depressed. His affect is congruent, but would brighten as the interview progressed. There was suicidal ideation present without plan or intent and no homicidal ideation, no auditory/visual hallucinations. Thought process was pertinent for thought blocking, but otherwise linear. He was alert and oriented x4 with fair attention. Concentration was poor with decreased effort. Hearing was intact and insight and judgement was deemed fair.

PHYSICAL EXAMINATION: Revealed an age appearing black male in scrubs. Vision was tested with the patient wearing contacts. Remainder of the examination was within normal limits.

REVIEW OF SYSTEMS: Pertinent only for nosebleeds.

LABORATORY DATA: EKG on 03/01/96 revealed a normal sinus rhythm with a ventricular rate of 65. SMA-7 was pertinent for chloride of 97 and a glucose of 58. LFT's pertinent for cholesterol of 250, triglyceride of 77 and a total bili of 1.8. CBC revealed a white blood cell count of 12.4, platelet count of 212, hemoglobin 15 and hematocrit of 45. Urinalysis was pertinent only for a urobilinogen of 2. TFT's were within normal limits. Urine drug screen was positive for cocaine.

HOSPITAL COURSE: This patient was subsequently admitted on 02/27/96 for crack dependence and suicidal ideation. He was placed on moderate level suicide precautions at the time of admit. During his stay, the patient was cooperative and attended groups. On the first day he stated that he wanted to stop his cocaine dependence. SKIDS and Ham-D were given to the patient. He attended relapse prevention group on 02/28/96 and the patient reported excessive worrying about the childhood and was able to recognize his catastrophing of events and was resistant to the idea of using rational thoughts to compete with these distressing thoughts. On 02/29/96 it was noted that the patient had a court date on 03/01/96 for driving with a suspended license and a message was sent to court about the patient being hospitalized and unable to attend. On 02/29/96 the patient was noted to be guarded, yet attending groups. Talked about his shame of using drugs. Recreation therapy

FIELDS, SIDNEY
Discharge Summary

EXHIBIT 5
pg 5 of 5

MRN# 000909538
Page 3

met with the patient on 02/29/96. On 03/01/96 he reported getting tense and anxious at times. He appeared to be benefitting from acupuncture and said that he did not want to come to the day program. He continued to be avoidant, but did talk about impulsive acts of using cocaine. Resident spoke with the patient on 03/01/96 about desipramine and follow-up being necessary if that were to be started. The patient agreed and an EKG was done and the patient was started on desipramine at 25 mg po at night. On 03/02/96 the patient was without acute suicidal ideation, although he did note chronic fleeting thoughts of suicide, but was able to contract for safety outside of the hospital. He was discharged to home on 03/02/96 with follow-up to be the day program per patient's scheduling with school.

DISPOSITION: The patient is to return home and complete truck driving school. Diet low fat. Activity ad lib with no use of alcohol or cocaine.

DISCHARGE MEDICATIONS: Desipramine 25 mg po q day (14 written for with no refills).

FOLLOW-UP: CDAP day program on 03/04/96 at 9 am, should his school schedule permit.

DW Hott

Christie R Williamson, M.D.
Resident in Psychiatry

Walter Hott, M.D.
Attending in Psychiatry

CRW:dfr

DD: 03/04/96 (Date dictated by M.D.)
DT: 03/05/96 (Date transcribed) (PatCom:) (FIEL538a.sum)



Psychomotor retardation

From Wikipedia, the free encyclopedia

Psychomotor retardation (also known as "psychomotor impairment" or "motormental retardation") involves a slowing-down of thought and a reduction of physical movements in an individual. Psychomotor retardation can cause a visible slowing of physical and emotional reactions, including speech and affect.^[1] This is most-commonly seen in people with major depression and in the depressed phase of bipolar disorder;^[2] it is also associated with the adverse effects of certain drugs, such as benzodiazepines.^[3] Particularly in an inpatient setting, psychomotor retardation may require increased nursing care to ensure adequate food and fluid intake and sufficient personal care. Informed consent for treatment is more difficult to achieve in the presence of this condition.

Psychomotor retardation

Classification and external resources

ICD-9-CM 308.2 (<http://www.icd9data.com/getICD9Code.aspx?icd9=308.2>)

MeSH D011596 (https://www.nlm.nih.gov/cgi/mesh/2015/MB_cgi?field=uid&term=D011596)

Examples

EXHIBIT 6

pg 1 of 5

Examples of psychomotor retardation include the following:

- Unaccountable difficulty in carrying out what are usually considered "automatic" or "mundane" self-care tasks for healthy people (i.e., without depressive illness) such as taking a shower, dressing, self-grooming, cooking, brushing one's teeth and exercising.
- Physical difficulty performing activities which normally would require little thought or effort such as walking up a flight of stairs, getting out of bed, preparing meals and clearing dishes from the table, household chores or returning phone calls.
- Tasks requiring mobility suddenly (or gradually) and inexplicably seem to be "impossible". Activities such as shopping, getting groceries, caring for the daily needs of one's children and meeting the demands of employment or school are commonly affected. Individuals experiencing these symptoms typically sense that something is wrong, and may be confused about their inability to perform these tasks.
- Activities usually requiring little mental effort can become challenging. Balancing one's checkbook, making a shopping list or making decisions about mundane tasks (such as deciding what errands need to be done) are often difficult.

In schizophrenia, mood may vary from psychomotor retardation to agitation; the patient will experience periods of lifelessness and may be unresponsive, and at the next moment be active and energetic.^[4]

See also

- Psychomotor learning
- Psychomotor agitation

References

1. Tryon, W.W. 1991. Activity Measurement in Psychology and Medicine. Springer Publishing
2. Buyukdura JS, McClintock SM, Croarkin PE (2011). "Psychomotor retardation in depression: biological underpinnings, measurement, and treatment". *Prog Neuropsychopharmacol Biol Psychiatry* **35** (2): 395–409. doi:10.1016/j.pnpbp.2010.10.019. PMC 3646325. PMID 21044654.
3. Allgulander, C.; Bandelow, B.; Hollander, E.; Montgomery, SA.; Nutt, DJ.; Okasha, A.; Pollack, MH.; Stein, DJ.; et al. (Aug 2003). "WCA recommendations for the long-term treatment of generalized anxiety disorder". *CNS Spectr* **8** (8 Suppl 1): 53–61. PMID 14767398.
4. Christopher D. Frith (1 January 1995). *The cognitive neuropsychology of schizophrenia*. Lawrence Erlbaum. p. 53. ISBN 978-0-86377-334-1. Retrieved 13 December 2010.

Retrieved from "https://en.wikipedia.org/w/index.php?title=Psychomotor_retardation&oldid=682294500"

Categories: Abnormal psychology | Motor control | Medical signs | Mental and behavioural disorders

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EXHIBIT 6

pg 2 of 5



HHS Public Access

Author manuscript

Peer-reviewed and accepted for publication

About author manuscripts

Submit a manuscript

Prog Neuropsychopharmacol Biol Psychiatry. Author manuscript; available in PMC 2013 May 7.

Published in final edited form as:

Prog Neuropsychopharmacol Biol Psychiatry. 2011 Mar 30; 35(2): 395-409.

Published online 2010 Oct 31. doi: [10.1016/j.pnpbp.2010.10.019](https://doi.org/10.1016/j.pnpbp.2010.10.019)

PMCID: PMC3646325

NIHMSID: NIHMS461542

Psychomotor retardation in depression: Biological underpinnings, measurement, and treatment

Jeylan S. Buyukdura,^{a,1} Shawn M. McClintock,^{a,b,2} and Paul E. Croarkin^{a,*}

^aDepartment of Psychiatry, University of Texas Southwestern Medical Center, Dallas, Texas, USA

^bDivision of Brain Stimulation and Therapeutic Modulation, Department of Psychiatry, New York State Psychiatric Institute, Columbia University, New York, New York, USA

Jeylan S. Buyukdura: jeylan.buyukdura@utsouthwestern.edu; Shawn M. McClintock: shawn.mcclintock@utsouthwestern.edu; Paul E. Croarkin: paul.croarkin@utsouthwestern.edu

*Corresponding author. UT Southwestern Medical Center Dallas, Department of Psychiatry, Division of Child and Adolescent Psychiatry, 6300 Harry Hines Blvd. Suite 1200, Dallas, TX 75390-8589, USA. Tel.: +1 214 456 4224 (office)

¹UT Southwestern Medical Center Dallas, Department of Psychiatry, Division of Child and Adolescent Psychiatry, 6300 Harry Hines Blvd. Suite 1200, Dallas, TX 75390-8589, USA.

²UT Southwestern Medical Center, Department of Psychiatry, 5323 Harry Hines Blvd., Dallas, TX 75235-8898, USA.

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See other articles in PMC that [cite](#) the published article.

EXHIBIT 6

pg 3 of 5

Abstract

Go to:

Psychomotor retardation is a long established component of depression that can have significant clinical and therapeutic implications for treatment. Due to its negative impact on overall function in depressed patients, we review its biological correlates, optimal methods of measurement, and relevance in the context of therapeutic interventions. The aim of the paper is to provide a synthesis of the literature on psychomotor retardation in depression with the goal of enhanced awareness for clinicians and researchers. Increased knowledge and understanding of psychomotor retardation in major depressive disorder may lead to further research and better informed diagnosis in regards to psychomotor retardation. Manifestations of psychomotor retardation include slowed speech, decreased movement, and impaired cognitive function. It is common in patients with melancholic depression and those with psychotic features. Biological correlates may include abnormalities in the basal ganglia and dopaminergic pathways. Neurophysiologic tools such as neuroimaging and transcranial magnetic stimulation may play a role in the study of this symptom in the future. At present, there are three objective scales to evaluate psychomotor retardation severity. Studies examining the impact of psychomotor retardation on clinical outcome have found differential results. However, available evidence suggests that depressed patients with psychomotor retardation may respond well to electroconvulsive therapy (ECT). Current literature regarding antidepressants is inconclusive, though tricyclic antidepressants may be considered for treatment of patients with psychomotor retardation. Future work examining this objective aspect of major depressive disorder (MDD) is essential. This could further elucidate the biological underpinnings of depression and optimize its treatment.

Keywords: Major depressive disorder, Neuropsychological measures, Psychomotor retardation, Rating scales

1. Introduction

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Psychomotor retardation has been characterized as a major feature of depression since antiquity. Hippocrates and Aretaeus of Cappadocia both described psychomotor retardation as a characteristic of depression (Sobin and Sackeim, 1997; Whitwell, 1936; Zilboorg, 1944). Darwin also discussed visible psychomotor symptoms and depressed patients who "no longer wish for action but remain motionless and passive, or may occasionally rock themselves to and fro" (Dantchev and Widlocher, 1998; Greden and Carroll, 1981). In the proceeding decades, authors such as Kraepelin expanded on psycho-motor retardation, building upon the knowledge of this noteworthy phenomenon by describing how it was more prominent than depressed mood and involved constrained speech, thought, and behavior (Greden and Carroll, 1981; Sobin and Sackeim, 1997).

Presently, psychomotor retardation is regarded as a key aspect of major depressive disorder (MDD) (American Psychiatric Association, 2000; Greden and Carroll, 1981; Widlocher, 1983). In the *Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition-Text Revision* (DSM IV-TR), it is one of the 9 core symptoms identified to diagnose MDD (American Psychiatric Association, 2000). Psychomotor retardation is also a principal symptom of MDD with melancholic features (American Psychiatric Association, 2000; Parker, 2005). Despite its long observed prevalence in MDD, the characterization and clinical significance of psychomotor retardation are poorly understood (Greden and Carroll, 1981; Sobin and Sackeim, 1997). This review will examine the biological correlates, measurement, and treatment implications of psychomotor retardation.

The aim of the paper is to provide a synthesis of the literature on psychomotor retardation in depression with the goal of enhanced awareness for clinicians and researchers. Increased knowledge and understanding of psychomotor retardation in major depressive disorder may lead to further research and better informed diagnosis in regards to psychomotor retardation. To carry out a systematic review, the lead author (JSB) performed independent searches in PubMed (1900–2010) database with the following terms: psycho-motor retardation, major depressive disorder, motor, speech, melancholia, antidepressant, electroconvulsive therapy (ECT), and scale. The systematic review included only the articles that mentioned psycho-motor retardation and at minimum, one other key search term in the abstract. Reference sections were also reviewed for additional sources. A total of 154 articles (English language literature) were included in this review. These studies were between the dates of 1936–2010, from Australia, Austria, Belgium, Canada, Denmark, France, Germany, Ireland, Italy, Japan, Mexico, Netherlands, New Zealand, Switzerland, United Kingdom, and United States; the methodologies and study designs varied.

2. Characteristics of psychomotor retardation

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2.1. Observable characteristics

Psychomotor retardation is unique in regards to depressive symptomatology as it is assessed through direct behavioral observations of speech, facial expression, eye movements, self-touching, posture, and speed and degree of movements (Jones and Pansa, 1979; Parker and Hadzi-Pavlovic, 1996; Sobin and Sackeim, 1997; Widlocher, 1983). Speech has been extensively studied in the context of depression and psychomotor retardation (Greden et al., 1981; Hardy et al., 1984; Sobin and Sackeim, 1997; Szabadi et al., 1976). Specifically, investigations have involved observations of pause and speech times, volume, tone, inflection, articulation, and response length (Greden et al., 1981; Greden and Carroll, 1981; Hardy et al., 1984; Sobin and Sackeim, 1997; Szabadi et al., 1976). Clinicians can easily assess marked speech abnormalities such as gross changes in volume and prosody (Greden, 1993). Characteristic eye movements of patients with psychomotor retardation are fixed gaze and poor maintenance of eye contact (Sobin et al., 1998; Widlocher, 1983). Another characteristic symptom is gross psychomotor slowing, including movement of the hands, legs, torso, and head (Parker and Hadzi-Pavlovic, 1996; Sobin et al., 1998; Widlocher, 1983). Slumped posture is also a manifestation of psychomotor retardation (Parker and Hadzi-Pavlovic, 1996; Sobin et al., 1998; Widlocher, 1983). In addition, patients with psychomotor retardation have been found to engage in increased self-touching, especially of the face (Sobin and Sackeim, 1997).

Objective tools have utility in quantifying these subtle symptoms. For example, a tape-recorder and oscilloscope are used to record speech abnormalities such as lengthy pauses and lowered volume of speech (Hardy et al., 1984; Szabadi et al., 1976). Similarly, the symptom of flat facial expression can be observed by clinicians (Parker and Hadzi-Pavlovic, 1996; Widlocher, 1983), and the use of electromyography (EMG) can increase the sensitivity of its reliable and valid documentation (Greden and Carroll, 1981). Electrooculography (EOG) is also a sensitive measurement for recording eye movements (Schmid-Priscoveanu and Allum, 1999). In addition to these observations and measurements during interviews (Parker and Hadzi-Pavlovic, 1996; Sobin et al., 1998; Widlocher, 1983), slowed movement has been quantified by other methods including response speed, time to draw, and gross motor movement (Bezzi et al., 1981; Iverson, 2004; van Hoof et al., 1993). Psychomotor scales are a reliable way for clinicians to assess the degree of retardation by observation during an interview (Parker and Hadzi-Pavlovic, 1996; Sobin et al., 1998; Widlocher, 1983). An outline of the characteristics, presentation, and method of observation is in Table 1.

Table 1
Characteristics of psychomotor retardation.

EXHIBIT 6
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2.2. Melancholic depression

Psychomotor retardation is considered a main feature of melancholic depression (Parker and Hadzi-Pavlovic, 1996; Parker et al., 2010; Sobin and Sackeim, 1997). The CORE measurement, which classifies depressed patients as melancholic or non-melancholic, focuses on psychomotor symptoms (Parker and Hadzi-Pavlovic, 1996). Parker and colleagues hypothesized that psychomotor retardation is pathognomonic for melancholia (Parker, 2005). Nonetheless, psychomotor retardation has been found to be present in other subtypes of depression (e.g., atypical depression) (Benazzi, 2002; Blackburn, 1975; Gupta, 2009; Niculescu and Akiskal, 2001; Schrijvers et al., 2009; Smith et al., 1995; Widlocher, 1983), suggesting that it may not be unique to melancholia (Greden and Carroll, 1981; Gupta, 2009; Moffoot et al., 1994; Niculescu and Akiskal, 2001; Parker and Hadzi-Pavlovic, 1996; Sobin and Sackeim, 1997; Widlocher, 1983).

2.3. Depression severity

There is no consensus regarding if depression severity is associated with the presence or degree of psychomotor retardation. Multiple studies have demonstrated that depression severity and psychomotor retardation are correlated (Blewett, 1992; Lemke et al., 1999). The Hamilton Depression Rating Scale (HDRS) has a positive correlation ($r=0.69$, $p=0.010$) with the Salpetriere Retardation Rating Scale (SRRS), a symptom severity scale specific to psychomotor retardation (Pier et al., 2004; Sabbe et al., 1999; van Hoof et al., 1993). Other studies assert that neuropsychological measures have a higher correlation with psychomotor retardation than depression severity (Loo et al., 2008; Shah et al., 1997). For example, the SRRS was found in a study to be significantly correlated ($r=0.67$, $p<0.005$) with Posner's covert orientation of visual attention test, motor tasks ($p<0.02$), and other neuropsychological measures of psychomotor retardation (Pier et al., 2004; Smith et al., 1995). In one study, patients with MDD relative to healthy controls displayed greater psychomotor retardation, while patients with dysthymic disorder did not show such features. However, results indicated that subjects with melancholic features were more likely to have psychomotor retardation than subjects with severe depressive symptoms (Pier et al., 2004). The discrepant findings between studies which show a correlation with psychomotor retardation to depression severity or neuropsychological measures may relate to differences in methodology, sample sizes, and measurement methods of psychomotor retardation.

3. Biological correlates of psychomotor retardation in MDD

Go to:

Previous work has examined the possible pathophysiology of psychomotor changes in mood disorders. It is appealing to consider other neuropsychiatric disorders with psychomotor changes such as schizophrenia,

1 pleading guilty to murder and armed robbery, the State is
2 not seeking the death penalty in this case.

3 Your Honor, the victim's family is in support
4 of this plea. It appears that it was not a premeditated
5 crime but one that developed by circumstances although it's
6 completely Sidney Fields' fault, of course.

7 And finally, Your Honor, he did call the police,
8 admitted to the offense, and has never denied his involvement
9 in this crime.

10 Your Honor, the victim's family may wish to address
11 you.

12 THE COURT: Be glad to hear from anybody, if you
13 want to, it's not necessary, you don't have to, but if you
14 do want to say anything, I am certainly glad to hear from
15 you.

16 MR. WON: I think life is a matter of decisions.
17 If the defendant decided to have drugs, he should bear the
18 responsibility of what happened to him. He had drugs, he
19 killed somebody, he should suffer the consequences and I
20 think the law always give excuses to murderers or any crimes
21 that they do, they have a excuses of on drugs, on alcohol.
22 If that's the case, Your Honor, I don't think anybody should
23 have traffic tickets, you know, just because of a few drinks
24 if that can be a excuse.

25 So drugs, I never think that should be a excuse

1 Sidney was raised in the James Island area here
2 in Charleston and early on people recognized that he had
3 a talent, a flair for cooking, and went to work for a local
4 Chinese restaurant and worked in Chinese restaurants both
5 here and in Jacksonville for much of his adult life.

6 On top of that he had some periods of time where
7 he worked as an over the road trucking person and you can
8 see from his prior criminal history that he is not someone
9 who set out in life with a past to be an offender. But what
10 he did develop was a very chronic problem with the use of
11 drugs and which ultimately culminated with crack cocaine.

12 Standing to my left today is Marcella Noel who
13 is the sister who was contacted by law enforcement and who
14 Sidney called for advice and the morning that this thing
15 happened, within a few hours, he then contacted law enforce-
16 ment officers from the Mt. Pleasant Police Department.

17 You have to ask yourself the question, well, why,
18 if he was able to commit such a savage attack on an innocent
19 man, would he then turn around within a matter of hours
20 and call the police and turn himself in? And that's the
21 question that I've lived with and I think you have to know
22 Sidney to answer the question. I think he was truly
23 horrified by his own behavior after the fact. At the time,
24 I think he was not thinking, he was in a drug induced rage,
25 fog, whatever you want to call it.

1 I reached out to an MUSC pharmacologist, Dr.
2 Alex Morton, who works here locally to try to get some better
3 sense of what goes on with the brain chemistry when you've
4 taken such a large amount or dosage of crack over a short
5 period. I won't belabor the details but basically what
6 it boils down to is is that you've replaced all your normal
7 brain chemicals with drugs and when they are gone, it induces
8 the kind of reaction that is the worse kind of depression
9 that you can imagine. And I think Sidney was thinking of
10 one thing only and that was to try to get some kind of drugs
11 in his system. When they finally cleared out, I think he
12 recognized and was horrified by what happened.

13 I did something in this case I've never done before
14 which was I asked for an opportunity for Sidney to meet
15 with an to apologize to this victim's family and Steve Won
16 graciously consented and went with me to the county jail
17 so that Sidney could make whatever partial explanation and/or
18 apology that he could make. I only point that out because
19 it's an unusual thing for the context of this kind of case
20 with its degree of seriousness. It was really Sidney's
21 request from the beginning as I think it was also the desire
22 of the family for some sort of explanation.

23 Ultimately there is no adequate explanation for
24 the savageness and the horror, but I think that there is
25 true sorrow and remorse. Sidney has, as he indicated to

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

SIDNEY FIELDS, #254392,)

2016-CP-10-0705

Applicant,)

v.)

RETURN AND MOTION TO DISMISS

State of South Carolina,)

Respondent.)
_____)

In response to the post-conviction relief application filed February 11, 2016, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the August 1997 term of the Charleston County Grand Jury for murder (1997-GS-10-5026) and armed robbery (1997-GS-10-5025). The Applicant was represented by D. Ashley Pennington, Esquire. On November 6, 1998, the Applicant pleaded guilty to murder and armed robbery. The Honorable Thomas L. Hughston, Jr. sentenced the Applicant to confinement for a period of life for murder and thirty (30) years for armed robbery. The Applicant did not appeal his conviction or sentence.

99-CP-10-1788

On May 13, 1999, the Applicant filed his first application for post-conviction relief. On June 20, 2000, he filed an amended application, in which he alleged the following grounds for relief:

1. Ineffective assistance of counsel in that counsel:

- a. Failed to investigate the case
 - b. Failed to get Applicant mentally evaluated
 - c. Pressured the Applicant to plead by "threatening" the Applicant with the death penalty
 - d. Did not comply with the Applicant's wishes for a jury trial
 - e. Deceived the Applicant into thinking he would be eligible for furlough
 - f. Erred in advising the Applicant that if he went to trial the jury would not be instructed on the lesser included offense on manslaughter
 - g. Misadvised the Applicant that his only two choices were the death penalty or the plea bargain
 - h. Did not make the Applicant aware that armed robbery carried a minimum sentence of ten (10) years
 - i. Violation of due process and equal protection rights
2. Violation of due process and equal protection rights.

The State filed its Return on December 20, 1999. On September 13, 2000, an evidentiary hearing was held before the Honorable R. Markley Dennis, Jr., at which the Applicant was present and was represented by Jack D. Cordray, Esquire. By Order dated September 21, 2001, Judge Dennis denied and dismissed the Applicant's application for PCR.

Eleanor Duffy Clearly of the South Carolina Office of Appellate Defense filed a timely Notice of Appeal on the Applicant's behalf and submitted a Johnson Petition for Writ of Certiorari. On October 11, 2002, the South Carolina Supreme Court denied the Petition.

2:3-0172-25AJ

The Applicant then filed a Petition for Writ of Habeas Corpus in the U.S. District Court on January 16, 2003. Respondents filed a Motion for Summary Judgment, Return and Memorandum of Law in Support of Motion for Summary Judgment dated May 1, 2003. The Honorable Terry L. Wooten granted Respondents' Motion for Summary Judgment and the Petition was dismissed on October 14, 2003.

2006-CP-10-1853

The Applicant then filed his second application for Post-Conviction Relief on May 11, 2006, in which he alleged the following grounds for relief:

1. Ineffective assistance of counsel in that counsel introduced an inapplicable furlough statute prior to the plea.

The State filed its Return and Motion to Dismiss on June 22, 2006. The Honorable Deadra L. Jefferson filed a Final Order of Dismissal dated August, 23, 2006. On September 8, 2006, the Applicant filed a Rule 59(e) motion. The Applicant's appeal to the Supreme Court of South Carolina was dismissed, and the Remittitur was issued on May 23, 2007.

02-207

The Applicant filed a Motion pursuant to 28 U.S.C. Section 2244 for authorization to file a successive application for relief on June 22, 2007, in the United States Court of Appeals for the Fourth Circuit. On July 18, 2007, the Clerk of the US Court of Appeals for the Fourth Circuit entered a denial of the motion at the direction of Judge Michael with the concurrence of Judge Wilkinson and Judge King.

2007-CP-10-3878

The Applicant subsequently filed his third application for PCRⁱ on August 31, 2007, in which he alleged the following grounds for relief:

1. Denied due process when PCR counsel's error denied Applicant a sufficient and preserved evidentiary record for appellate review.

The State filed its Return and Motion to Dismiss on February 7, 2008. The Honorable Roger M. Young, Sr. issued a Conditional Order of Dismissal dated February 8, 2008. Judge Young, Sr. subsequently withdrew his Conditional Order of Dismissal and transferred the case to the civil roster as a Petition for Habeas Corpus. On November 3, 2008, a hearing was held with

Applicant present and the Honorable R. Markley Dennis, Jr. dismissed with prejudice the application as untimely and successive.

On June 24, 2009, Lanelle Cantey Durant of the South Carolina Commission on Indigent Defense filed a Johnson Petition for Writ of Certiorari on the Applicant's behalf. The Honorable James E. Lockemy, Honorable Thomas E. Huff, and Honorable Aphrodite K. Konduros denied certiorari on November 5, 2010.

On November 16, 2010, Applicant filed a Petition for Rehearing in the South Carolina Court of Appeals. The Honorable James E. Lockemy, Honorable Thomas E. Huff, and Honorable Aphrodite K. Konduros signed an Order Denying Applicant's Petition for Rehearing filed December 17, 2010 and the Remittitur was filed January 25, 2011.

2011-CP-10-7173

The Applicant filed his fourth application for PCRⁱⁱ on October 4, 2011, in which he alleged the following grounds for relief:

1. "Petitioner has statutory right to habeas corpus"
2. "Circuit court committed error of law"
3. "Lack of Subject Matter Jurisdiction"

On May 7, 2013, this application was dismissed by the Honorable J. C. Nicholson, Jr., pursuant to SCRCP Rule 5(d), for failure to timely serve upon Defendant.

2014-CP-10-0305

On February 7, 2014, Applicant filed a Petition for Writ of Mandamus in the Court of Common Pleas of Charleston County. The Defendant filed its Motion to Dismiss February 27, 2014. Applicant filed his Response to the Motion to Dismiss, dated March 4, 2014. On May 23, 2014, a hearing was held with the Applicant present before the Honorable J. C. Nicholson, Jr.

Judge Nicholson granted Defendant's Motion to Dismiss Petitioner's Petition for Writ of Mandamus on June 11, 2014.

In his current application for PCR, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Newly Discovered Evidence"
 - a. Applicant recently reviewed his drug rehab records from 1996 and discovered he was diagnosed for "psychomotor retardation."

For the purpose of this Return, the Respondent incorporates the Clerk of Court records and the prior Orders of Dismissal. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

The Court should summarily dismiss the current Application because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991).

Any new ground raised in a subsequent application is limited to those grounds that “could not have been raised . . . in the previous application.” Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

The Applicant could have raised the new grounds for relief in his prior post-conviction relief applications. The Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications. Accordingly, Respondent moves for a summary dismissal of the application because it is successive.

III.

The Respondent submits that this Application for Post-Conviction Relief should also be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was pleaded guilty of the offenses he challenges in this Application on November 6, 1998. The Applicant, therefore, was required to file his application on or before November 7,

1999. This Application was filed on February 11, 2016, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court summarily dismiss the application for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

IV.

Respondent also submits Applicant's claim of newly discovered evidence fails to make a prima facie showing that he is in actual possession of evidence or that evidence would likely result in his guilty plea being vacated.

Generally, an applicant may raise a newly discovered evidence claim within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. S.C. Code Ann. § 17-27-45(c) (2014). When an applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only when the applicant presents evidence showing (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea and (2) the newly discovered evidence is of such weight and quality that, under the facts of circumstances of that particular case, the "interest of justice"

requires the applicant's guilty plea be vacated. Jamison v. State, 765 S.E.2d 123, 129, 410 S.C. 456 (2014).

"[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013) (citing Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal defendant's right to contest the validity of such a plea is usually, but not definitely, foreclosed. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (2007). Further, "a defendant is not entitled to withdraw his plea merely because he discovers long after the plea has been accepted that his calculus misapprehended the quality of the State's case or the likely penalties attached to alternative courses of action." Brady v. U.S., 397 U.S. 742, 757 (1970).

In Jamison, the South Carolina Supreme Court noted it would be a "rare case" where the interests of justice require the vacation of a knowing and voluntary guilty plea involving an admission of guilt and a waiver of trial. Respondent submits Applicant's newly discovered evidence claim does not sufficiently or clearly present a "rare case" requiring a vacation in the interest of justice. Applicant failed to set forth any newly discovered evidence that could not have been discovered prior to his guilty plea, in the exercise of reasonable diligence. Applicant should have been aware of his diagnosis from 1996 of "psychomotor retardation" or at the very least, in the exercise of reasonable diligence, Applicant could have known of this diagnosis. Therefore, this newly acquired *knowledge* does not qualify as "newly discovered evidence" as required by law. Furthermore, Applicant fails to show how its weight and quality require his guilty plea and sentence to be vacated in the interests of justice. Before the circuit court will hold an evidentiary hearing, Applicant must make a prima facie showing that he is entitled to

relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Respondent submits Applicant failed to make a prima facie showing that he is entitled to relief based on the information set forth and, therefore, is not entitled to an evidentiary hearing in the matter.

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, Respondent moves to summarily dismiss the application because it is successive to the Applicant's prior PCR actions, was filed after the statute of limitations had expired, and does not present any newly discovered evidence warranting the vacation of Applicant's guilty plea.

Respectfully submitted,

ALAN WILSON
Attorney General

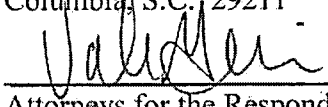
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P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for the Respondents

October 20, 2016
Columbia, South Carolina

ⁱ Although application was entitled "Application for (State) Habeas Corpus Pursuant to S.C. Code Ann. §17-17-10," it was not filed in the right jurisdiction and thus the Court construed and treated it as an Application for PCR.

ⁱⁱ Again, although Applicant filed "Petition for Writ of Mandamus," the Court construed and treated it as an Application for PCR.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SIDNEY FIELDS, #254392,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

2016-CP-10-0705

CONDITIONAL ORDER OF DISMISSAL

FILED
NOV -8 PM 1:44
JULIE J. ABRAHAMSON
CLERK OF COURT

This matter comes before this Court by way of an application for post-conviction relief filed February 11, 2016.

Procedural History

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The Applicant subsequently filed his third application for PCR¹ on August 31, 2007, in which he alleged the following grounds for relief:

1. Denied due process when PCR counsel's error denied Applicant a sufficient and preserved evidentiary record for appellate review.

The State filed its Return and Motion to Dismiss on February 7, 2008. The Honorable Roger M. Young, Sr. issued a Conditional Order of Dismissal dated February 8, 2008. Judge Young, Sr. subsequently withdrew his Conditional Order of Dismissal and transferred the case to the civil

roster as a Petition for Habeas Corpus. On November 3, 2008, a hearing was held with Applicant present and the Honorable R. Markley Dennis, Jr. dismissed the application with prejudice as untimely and successive.

On June 24, 2009, Lanelle Cantey Durant of the South Carolina Commission on Indigent Defense filed a Johnson Petition for Writ of Certiorari on the Applicant's behalf. The Honorable James E. Lockemy, Honorable Thomas E. Huff, and Honorable Aphrodite K. Konduros denied certiorari on November 5, 2010.

On November 16, 2010, Applicant filed a Petition for Rehearing in the South Carolina Court of Appeals. The Honorable James E. Lockemy, Honorable Thomas E. Huff, and Honorable Aphrodite K. Konduros signed an Order Denying Applicant's Petition for Rehearing filed December 17, 2010 and the Remittitur was filed January 25, 2011.

2011-CP-10-7173

The Applicant filed his fourth application for PCR² on October 4, 2011, in which he alleged the following grounds for relief:

1. "Petitioner has statutory right to habeas corpus"
2. "Circuit court committed error of law"
3. "Lack of Subject Matter Jurisdiction"

On May 7, 2013, this application was dismissed by the Honorable J. C. Nicholson, Jr., pursuant to SCRCF Rule 5(d), for failure to timely serve upon Defendant.

2014-CP-10-0305

On February 7, 2014, Applicant filed a Petition for Writ of Mandamus in the Court of Common Pleas of Charleston County. The Defendant filed its Motion to Dismiss February 27, 2014. Applicant filed his Response to the Motion to Dismiss, dated March 4, 2014. On May 23,

2014, a hearing was held with the Applicant present before the Honorable J. C. Nicholson, Jr. Judge Nicholson granted Defendant's Motion to Dismiss Petitioner's Petition for Writ of Mandamus on June 11, 2014.

In his current application for PCR, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Newly Discovered Evidence"
 - a. Applicant recently reviewed his drug rehab records from 1996 and discovered he was diagnosed for "psychomotor retardation."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief, and thus, the current

application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

This Court additionally finds that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgement of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant pleaded guilty to the offenses he challenges in this Application on November 6, 1998. The Applicant therefore was required to file his application on or before November 7, 1999. This Application was filed on February 11, 2016, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of

law." Therefore, this Court finds that the application for post-conviction relief is summarily dismissed for failure to file within the time mandated by statute and for being successive.

Additionally, this Court finds that the current application for post-conviction relief must be summarily dismissed because it fails to make a prima facie showing that he is in possession of newly discovered evidence that would likely result in his guilty plea being vacated. Generally, an applicant may raise a newly discovered evidence claim within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. S.C. Code Ann. § 17-27-45(c) (2014). When an applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only when the applicant presents evidence showing (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea and (2) the newly discovered evidence is of such weight and quality that, under the facts of circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea be vacated. Jamison v. State, 765 S.E.2d 123, 129, 410 S.C. 456 (2014).

"[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013) (citing Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal defendant's right to contest the validity of such a plea is usually, but not definitely, foreclosed. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (2007). Further, "a defendant is not entitled to withdraw his plea merely because he discovers long after the plea has been accepted that his calculus misapprehended the quality of the State's case or the likely penalties attached to alternative

courses of action.” Brady v. U.S., 397 U.S. 742, 757 (1970).

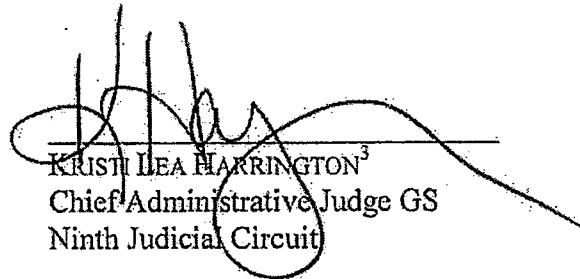
In this case, Applicant failed to set forth any newly discovered evidence that could not have been discovered prior to his guilty plea, in the exercise of reasonable diligence. Furthermore, Applicant fails to show how its weight and quality require his guilty plea and sentence to be vacated in the interests of justice. Before the circuit court will hold an evidentiary hearing, Applicant must make a prima facie showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Court finds that Applicant failed to make a prima facie showing that he is entitled to relief based on the information set forth and, therefore, is not entitled to an evidentiary hearing in the matter.

CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Charleston County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: Alicia A. Olive, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 26th day of October, 2016.


KRISTI LEA HARRINGTON³
Chief Administrative Judge GS
Ninth Judicial Circuit

Monrovia Corner, South Carolina

¹ Although application was entitled "Application for (State) Habeas Corpus Pursuant to S.C. Code Ann. §17-17-10," it was not filed in the right jurisdiction and thus the Court construed and treated it as an Application for PCR.

² Again, although Applicant filed "Petition for Writ of Mandamus," the Court construed and treated it as an Application for PCR.

³ The Honorable Chief Administrative Judge Roger M. Young, Sr. ruled on Applicant's previous PCR actions.

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STATE OF SOUTH CAROLINA	)	In The Court Of Common Pleas
COUNTY OF CHARLESTON	)	Ninth Judicial Circuit
Sidney Fields # 254392	)	Case # 2016-CP-10-79
Applicant.	)	
	)	
V.	)	
	)	Response To
State Of South Carolina	)	Conditional Order Of Dismissal
Respondent.	)	
	)	

FILED

2016 NOV 23 AM 11:54

CLERK OF COURT

Applicant above named is now before this court to respond to the Conditional Order Of Dismissal filed November 8, 2016 and received by applicant November 15, 2016

Statute law stipulates that if there exist evidence of material facts not previously presented and requires vacation of the conviction or sentence, a (PCR) application can be filed within one year after the date of discovery of the facts by the applicant, or after the date when the facts could have been ascertained by exercise of reasonable diligence. **S.C. Code Ann. §17-27-45(c) / Jamison v. State 410 S.C. 456,466, 765 SE2d 123,127-28 (2014)**

And if there exist a genuine issue of material fact, disposition on the pleadings and record is not proper. **S.C. Code Ann. §17-27-70(b)** Therefore, not only is the current (PCR) application based on newly discovered evidence, there exist a genuine issue of material fact for an evidentiary hearing on the merits. **Coats v. State 352 S.C. 500, 575 SE2d 557, 559 (2003)**

BACKGROUND

On April 4, 2015 at the behest of the prison mental health counselor, applicant requested his medical records from the Medical University Of S.C. to receive the name of the anti-anxiety medication that was prescribed to him during his drug rehabilitation treatment at the hospital in 1996.

On June Of 2015 applicant received his medical records and upon review, the records revealed that applicant not only suffered from a crack cocaine addiction, anxiety and having suicidal ideations, applicant was also suffering from Psychomotor Retardation at the time of his treatment at the hospital. (It must be noted that applicant's treatment at the hospital was one year prior to being charged with Murder and Armed Robbery). PCR Exh 5

This newly discovered evidence that applicant was suffering from a mental defect (Psychomotor Retardation) at the time of the crime is the bases for this current (PCR) application. S.C. Code Ann. §17-27-45(c)

Psychomotor Retardation (Also known as Psychomotor Impairment or Motor Mental Retardation) involves a slowing down of thought. Furthermore, people who are diagnosed with this condition not only suffer from an impairment of their cognitive functions (Which affects a persons awareness and judgment), it is also commonly seen in people with major depression. As a matter of scientific fact, Psychomotor Retardation is a long established component of depression. PCR Exh 6

And since it is a well established fact that applicant was a chronic crack cocaine user coupled with the fact that applicant suffered from an underlying mental defect, this caused insanity to be permanent and irreversible. In other words, at the time of the crime, applicant lacked the capacity to distinguish right from wrong. 22 CJS Criminal Law §112 §113 (1989) / State v. Hartfield 300 S.C. 469,473, 378 SE2d 802,804 (1990)

ARGUMENT

In it's Conditional Order Of Dismissal, the court concluded that the application should be summarily dismissed because applicant had full opportunity to litigate his current allegations in prior proceedings. Therefore, the current (PCR) application is successive and is barred by the statute of limitations. Order pg 5-6

Applicant argues that this conclusion is baseless and is not supported by the record before the court because the current application has been filed under the newly discovered evidence Rule which states that a (PCR) application can be filed within one year after the date of discovery. S.C. Code Ann. §17-27-45(c) / Jamison v. State 418 S.C. at 466, 765 SE2d at 127-28 (2014)

Applicant further argues that he has clearly shown that he could not have known the existence of the new evidence prior to his guilty plea, thus could not have raised the issue prior to discovering it in June of 2015. Only when applicant was recently prompted by the mental health counselor to retrieve his medical records, did applicant became aware of the existence of the doctor's diagnosis that he was suffering from Psychomotor Retardation.

Although the psychiatrist revealed in his medical notes that applicant was suffering from Psychomotor Retardation, the psychiatrist never made mention in his notes that he informed applicant of this condition nor did the notes reveal that applicant was treated for the condition. Therefore, the current allegation could not have been raised in any previous proceedings, thus the current application cannot be held as being successive. PCR EXH 5

Furthermore, applicant argues that there is an exception to the statute of limitation clause through the discovery Rule which allows one year to file a (PCR) application after the new evidence has been discovered. S.C. Code Ann. §17-27-45(c) McCoy v. State 401 S.C. 363,369-70, 737 SE2d 623,626-27 (2013)

The court further concluded in it's Conditional Order that the application should be summarily dismissed due to the fact that applicant failed to set forth any new evidence that could not have been discovered prior to his guilty plea. And that applicant failed to make a prima facie showing that he is entitled to relief. Order pg 7-8

Applicant argues that the discovery of his Psychomotor Retardation condition is not only considered new evidence, applicant has demonstrated sufficient reason why this new evidence could not have been discovered prior to his guilty plea being that he was unaware that he was suffering from a mental defect. And to add insult to injury, applicant inadvertently exacerbated this condition by his chronic drug use causing insanity to be permanent and irreversible. S.C. Code Ann. §17-27-90 / McCoy v. State 401 S.C. 363,370 737 SE2d 623,627 (2013)

Lastly, the Conditional Order concluded that applicant failed to make a prima facie showing that he is entitled to relief. Applicant argues that the court is astute in legal and judicial matters only, thus cannot refute the findings of a medical professional in the field of psychology and drug addiction. PCP Exh 5

Therefore, since the court lacks expertise in the field of psychology and drug addiction, and the fact that the court failed to refute in it's fact finding and conclusions of law the findings of the psychologist during applicant's treatment at the hospital, the court is in no position to conclude that applicant failed to make a prima facie showing that he is entitled to relief.

Because the new evidence reveals that applicant not only was suffering from a mental defect at the time of the crime, but this mental defect was exacerbated by his chronic drug use causing insanity to be permanent and irreversible. This warrants the vacation of his conviction and sentence to raise the defence of insanity in a new trial. PCR Exh 5,6

Therefore, the court's conclusion that applicant failed to make a prima facie showing that he is entitled to relief is not supported by the record, thus cannot be relied upon.

Applicant finally asserts that not only is the court's conclusions set forth in it's Conditional Order Of Dismissal baseless, the court failed to demonstrate the absence of a genuine issue of material fact. And because the court never demonstrated the absence of, the court is not entitled to summarily dismiss the matter. Strickland v. Madden 323 S.C. 63,68, 448 SE2d at 584 (1994)

CONCLUSION

The record before the court clearly shows that applicant's Psychomotor Retardation condition was discovered after the guilty plea. And in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea. Jamison v. State 410 S.C. 456,470, 765 SE2d 123,130 (2014)

Secondly, because this new evidence puts applicant's state of mind into question at the time of the crime, this evidence is of such a weight and quality that under the circumstances of the particular case, the interest of justice requires the applicant's guilty plea be vacated. Id.

And since applicant alleges facts that establishes an exception to the statute of limitations and to the prohibition against successive (PCR) applications, and that those facts were not conclusively refuted by the record before the court, a question of fact raised can only be resolved by a hearing. McCoy v. State 410 S.C. 363,369, 737 SE2d 623,626 (2013)

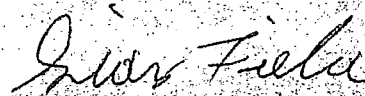
Not only has applicant shown in this response that he has a genuine issue of material fact, he has shown that it would be a gross miscarriage of justice to not grant a hearing on the merits of the application. Coats v. State 352 S.C. 500, 575 SE2d 557,559 (2003)

Applicant lastly asserts that when the application was filed, the Conditional Order was the only response to the application. Therefore, since there was no return and motion to dismiss by the respondent, the conditional Order is void because without the respondent's position on record, it's improper for the court to issue a ruling on the matter. Although the Order was "Conditional" and that it allowed 20 days for applicant to respond to it's contentions, nonetheless the Order did not endow the court with jurisdiction over the subject matter.

Also, the court's actions is not in keeping with Statute law S.C. Code Ann. §17-27-40 and Rule 12 SCRCP which gives the respondent the right to state their position in the matter and gives the applicant right to respond to the respondent not to the court.

Wherefore, applicant Sidney Fields now ask this Honorable court to vacate it's Conditional Order Of Dismissal and grant a hearing on the merits of the application or in the alternative, grant a hearing to determine whether a hearing on the merits is warranted.

Respectfully Submitted,


Sidney Fields # 254392

B.R.C.I. 4460 Broad River Rd.

Murray 256

Columbia, S.C. 29210

Date *November 21, 2016*

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
Sidney Fields # 254392
Applicant.

V.

STATE OF SOUTH CAROLINA
Respondent.

) In The court Of Common Of Pleas
) Ninth Judicial Circuit
) Case # 2016-CP-10- 705

)
)
) Motion To Reconsider

) Pursuant To Rule 59(e) SCRCP
)
)

FILED
2018 JUN 29 PM 1:08
CLERK OF COURT

Pursuant to the Final Order of the court, applicant is now before the court asking the court to reconsider it's Final Order pursuant to Rule 59(e) SCRCP. The Final Order was filed on June 12, 2018 and received by Broad River Correctional Inst. Mailroom facility on June 18, 2018, and received by applicant on June 22, 2018. **(see attached)**

This motion is before the court because applicant specifically stated in his response to the Conditional Order Of Dismissal that the court's fact finding and conclusion of law is without bases, and is not supported by the record before the court. **(response p.3,5)**

And since there is no probative evidence to support the court's findings, and the fact that there are genuine issues as to whether the application is successive and time barred, this motion to reconsider is now before this court.

BACKGROUND

On April 4, 2015, at the behest of the prison mental health counselor, applicant requested his medical records from the Medical University Of S.C. to received the name of the anti-anxiety medication that was prescribed to him during his drug rehabilitation treatment at the hospital in 1996.

In June of 2015, applicant received his medical records, and upon review, applicant newly discovered that he was suffering from Psychomotor Retardation at the time of his treatment at the hospital. **(Exh 5 attached)**. It must be noted that applicant was charged with Murder and Armed Robbery one year later.

This newly discovered evidence that applicant was suffering from a mental defect (Psychomotor Retardation) at the time of the crime is the bases for this current (PCR) application. **S.C. Code Ann. §17-27-45(c)**

Applicant alleged in the application that: he is entitled to the vacation of his conviction and sentence to raise the defence of insanity in a new trial where newly discovered evidence revealed that at the time of the crime, not only was he suffering from a mental defect, this mental defect was exacerbated by his drug use causing insanity to be permanent and irreversible.

The State submitted a motion to dismiss dated October 20, 2016. On November 8, 2016, the court issued a Conditional Order Of Dismissal. On November 23, 2016 applicant "Responded" to the Conditional Order alleging that the court's findings is baseless. On June 12, 2018, the Conditional Order became Final.

Applicant's motion asking the court to reconsider it's Final Order now follows:

ARGUMENT

THE LOWER COURT ERRED FOR DISMISSING THE PCR APPLICATION WITHOUT A HEARING WHEN THERE WAS A GENUINE ISSUE OF MATERIAL FACT AS TO WHETHER THE PCR APPLICATION IS SUCCESSIVE AND TIME BARRED.

Successiveness

In the instant case, although the psychiatrist revealed in the medical records that applicant was suffering from Psychomotor Retardation, the Psychiatrist never made mention in the records that he informed applicant of the condition, nor did the records reveal that applicant was treated for the condition. The medical records clearly shows that applicant was admitted and treated only for crack cocaine addiction, anxiety and suicidal thoughts in a 3 day detoxification program. **Exh 5 / (response to conditional order p.3)**

When applicant newly discovered in June 2015 that he was suffering from Psychomotor Retardation, applicant subsequently submitted a (PCR) application pursuant to §17-27-45(c) alleging that: he is entitled to the vacation of his conviction and sentence to raise the defense of insanity in a new trial where newly discovered evidence reveals that at the time of the crime, not only was he suffering from a mental defect, the mental defect was exacerbated by his drug use causing insanity to be permanent and irreversible. **(pcr application and memorandum in support)**

However, the (PCR) court concluded in it's Conditional Order that applicant could have raised this allegation in his original application for Post Conviction Relief, and that he failed to show a sufficient reason why this allegation could not have been raised. **(conditional order p.5,6)**

The court based its conclusion on Statute law §17-27-90, which states that all grounds for relief available to an application under this chapter must be raised in his original, , supplemental or amended application..... unless the court finds a ground for relief asserted which for sufficient reason was not asserted in the original, supplemental or amended application. S.C. Code Ann. §17-27-90 / (conditional order p.5,6)

The court went on to conclude that since applicant could have raised this allegation in his original (PCR) application, and the fact that he failed to show a sufficient reason why this issue could not have been raised in the original application, this application is successive and barred under 17-27-90. (conditional order p.5.6)

Applicant argues that his original (PCR) application was filed on May 13, 1999. The new evidence was discovered in June 2015 and was raised in a (PCR) application pursuant to §17-27-45(c). Statute law §17-27-45(c) permits (PCR) applications based on new evidence claims and allows for applications to be filed within 1 year after the discovery of the new evidence. McCoy v. State 401 S.C. 363,368-69, 737 SE2d 623,626 (2013)

Therefore, since it is clear that applicant could not have known that he was suffering from Psychomotor Retardation before June 2015, applicant could not have raised this new evidence in the May 13, 1999 original application.

Not only has applicant properly raised this new evidence claim in a (PCR) application pursuant to §17-27-45(c), applicant has given a sufficient reason under §17-27-90 why this new evidence could not have been raised in the May 13, 1999 original (PCR) application. McCoy v. State 401 S.C. at 369, 737 SE2d at 627 (2013)

The S.C. Supreme Court has ruled that the findings of the Post Conviction relief court will be upheld if there is any evidence of probative value to support them. However, the findings of a Post Conviction Relief court will not be upheld if no probative evidence supports those findings. Rutland v. State 415 S.C. 570,576, 785 SE2d 350,353 (2016)

Applicant asserts that not only is the lower court's findings on the successiveness clause not supported by any evidence of probative value, there exist a genuine issue of material fact as to whether applicant's claim is successive. McCoy 401 S.C. at 370, 737 SE2d at 627 (2013)

Statu

Statute Of Limitations

On the Statute Of Limitation issue, the court further concluded that since applicant was convicted and sentenced on November 16, 1998, applicant had until November 16, 1999 (one year later) to submit the current (PCR) application. (conditional order p.6)

The court based it's conclusion on Statute law §17-27-45(a), which states that an application for relief filed pursuant to this chapter must be filed within 1 year after entry of Judgment of conviction.....S.C. Code Ann. §17-27-45(a) / (conditional order p.6)

The court went on to conclude that since applicant failed to file the current application within 1 year of his conviction pursuant to §17-27-45(a), the application is time barred and must be summarily dismissed. (conditional order p.6,7)

Applicant argues that there is an exception to the 1 year Statute Of Limitation clause under §17-27-45(a). That exception is §17-27-45(c). Statute law §17-27-45(c) permits (PCR) applications based on new evidence claims and allows for the application to be filed within 1 year after the discovery of the new evidence. McCoy 401 S.C. at 369-70, 737 SE2d at 626-27 (2013)

Applicant further argues that since he discovered the new evidence in June 2015 and subsequently submitted a (PCR) application within 1 year pursuant to §17-27-45(c), the court's findings on the statute of limitation clause is not supported by evidence of probative value. Rutland v. State 415 S.C. at 576, 785 SE2d at 553 (2016)

Thus said, there exist a genuine issue of material fact as to whether applicant's claim is time barred. McCoy 401 S.C. at 372, 737 SE2d at 628 (2013)

CONCLUSION

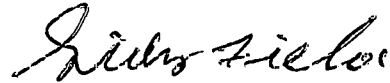
Not only has applicant made a prima facie showing that he is in possession of newly discovered evidence that would result in his guilty plea being vacated (response to conditional order p.4,5), he has made a prima facie showing that the court made an error of law. (response to conditional order p.3)

In it's Final Order, the court stated that applicant argued that since it is a new evidence claim, the application is not successive and time barred. (final order p.1) Applicant contends that the court misconstrued the facts. Applicant argued that the court's fact finding and conclusion of law on the successiveness and the untimeliness of the application is baseless. This is because the court's findings on the successiveness and the untimeliness of the application contradicts Statute law §17-27-45(c). (response to conditional order p.3,5)

And since applicant alleged facts that establishes an exception to the Statute of limitation and the successiveness clause, and that those facts are not conclusively refuted by the record (response p.3,5), a question of fact raised can only be resolved by a hearing on the merits. McCoy v. State 401 S.C. 363,369, 737 SE2d 623,625 (2013)

Wherefore, applicant Sidney Fields now pray that this Honorable court vacate it's Final Order and grant a hearing on the merits of the application. Or in the alternative, grant a hearing on this 59(e) motion to determine whether a hearing on the merits is warranted.

Respectfully Submitted,



Sidney Fields # 254392

Date June 25, 2018

B.R.C.I. 4460 Broad River Rd.

Marion # 256

Columbia, S.C. 29210

cc
AG
AT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Sidney Fields,)
S.C.D.C. No. 254392,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2016-CP-10-0705

**ORDER DENYING APPLICANT'S MOTION
TO RECONSIDER PURSUANT TO
RULE 59(e), SCRPC**

FILED
2018 AUG 24 AM 11:46
JULIE M. COLEMAN
CLERK OF COURT

This matter comes before the Applicant's Motion to Reconsider Pursuant to Rule 59(e), SCRPC, motion, served on the court and Respondent on June 25, 2018. The Court finds as follows:

This matter originally came before the Court by way of an application for post-conviction relief filed February 11, 2016. Respondent served its return and motion to dismiss on October 20, 2016, requesting the application be summarily dismissed as successive and untimely under the statute of limitations.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Court issued a Conditional Order of Dismissal, filed November 8, 2016, provisionally denying and dismissing this action, while giving Applicant twenty days from the date of service of said order in which to show why the dismissal should not become final. Applicant responded and the Court, after considering Applicant's response, issued a Final Order of Dismissal filed June 12, 2018, dismissing this action with prejudice.

In his motion, Applicant asks the Court to reconsider its ruling pursuant to Rule 59(e), SCRPC and grant him an evidentiary hearing, arguing the court erred in determining his application was untimely and successive because he filed his application within one year of

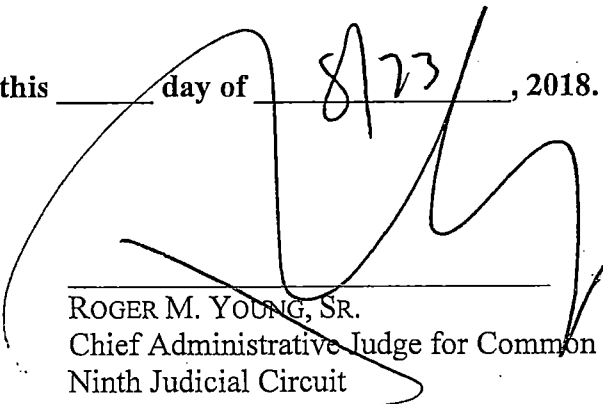
receiving his medical records. This Court has thoroughly reviewed the arguments presented by Applicant in his motion and affirms the court's prior orders dismissing the application.

The court's Final Order of Dismissal and Conditional Order of Dismissal contain the required findings of fact and conclusions of law necessary to dispense with Applicant's allegations as required by S.C. Code Ann. § 17-27-80 and Rule 52(a), SCRCP; see also McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991). Accordingly, the court properly ruled on all issues before it, and Applicant's motion should be denied. Accordingly, the Court properly ruled on all issues before it, and Applicant's motion must be denied.

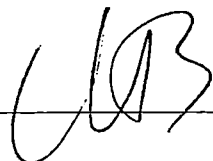
CONCLUSION

Based on all of the foregoing, this Court finds and concludes that Applicant has not established any reason to alter or amend its Final Order of Dismissal filed June 12, 2018. Accordingly, Applicant's Motion to Reconsider is **DENIED**.

AND IT IS SO ORDERED this _____ day of 8/23, 2018.



ROGER M. YOUNG, SR.
Chief Administrative Judge for Common Pleas
Ninth Judicial Circuit


_____, South Carolina

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Sidney Fields, #254392,

2016-CP-10-0705

Applicant,

v.

FINAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

FILED
2016 JUN 12 PM 12:28
CLERK OF COURT

This matter comes before this Court by way of an application for post-conviction relief filed February 11, 2016. Respondent made its return on or about October 20, 2016, requesting the application be summarily dismissed.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed October 25, 2016 and filed November 8, 2016, provisionally denying and dismissing this action, while giving the Applicant 20 days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated November 22, 2016, serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant filed a document captioned "Response to Conditional Order of Dismissal" from Applicant on November 23, 2016. In his response, Applicant alleges his application was not untimely and successive on the basis of newly discovered evidence. Applicant contends the newly discovered evidence "reveals that Applicant not only was suffering from a mental defect at the time of the crime." He further alleges this mental defect was "exacerbated by his chronic

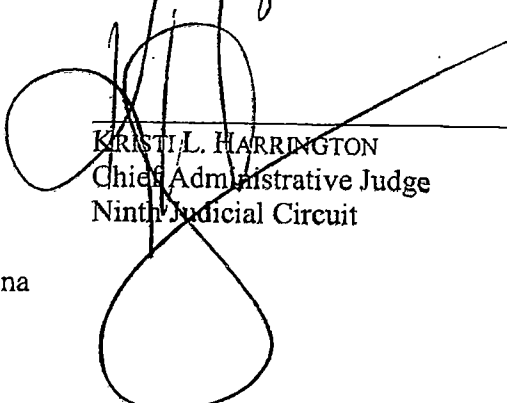
drug use causing insanity to be permanent and irreversible.”

This Court has reviewed Applicant’s responses to the Conditional Order of Dismissal in their entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court’s Conditional Order of Dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

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

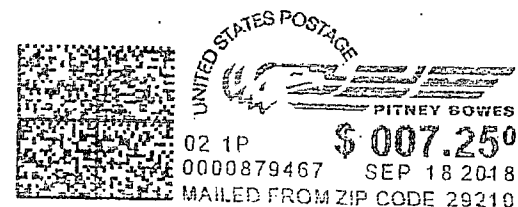
AND IT IS SO ORDERED this 1st day of June, 2018.



KRISTI L. HARRINGTON
Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina

Key Fields #254392
C.I. 4460 Broad River Rd.
nion # 256
olumbia, S.C. 29210



The Hon. Daniel E. Shearouse
Clerk, S.C. Supreme Court
P.O. Box 11330
Columbia, S.C. 29211

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