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Oct 20 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
The Honorable DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

Respondent,

v.

CHARLES BRANDON BARHAM,

Appellant

Appellate Case No. 2019-001981

RETURN AND OPPOSITION TO MOTION TO STAY APPEAL AND FOR PERMISSION TO FILE RULE 29(b), SCRCrP, MOTION FOR A NEW TRIAL

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Post Office Box 192
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ATTORNEYS FOR RESPONDENT

Appellant moves for a stay of his appeal and for permission to file a Rule 29(b), SCRCrimP Motion for a New Trial based on After-discovered Evidence in the Court of General Sessions. The Motion to Stay and Request for Permission should be denied because any motion for a new trial based on after-discovered evidence would be time barred under Rule 29(b), SCRCrimP and the likelihood of prevailing futile; and, as a result the granting of such a motion would needlessly delay the direct appeal in this case. For the reasons set forth herein, the motion should be denied.

STATEMENT OF THE CASE

On September 6, 2015, Charles Kusko ("Victim") was murdered in Richland County. Appellant Brandon Barham and co-defendant Floyd Owen were arrested for the murder in August of 2017. Barham was indicted for murder, burglary 1st degree, conspiracy to commit murder, and possession of a weapon during a violent crime.[1] Barham proceeded to a jury trial August 26-30, 2019 before Judge DeAndrea Benjamin, after which the jury found Barham guilty as charged. Barham filed a "Motion for New Trial" based on alleged error in admitting evidence in his trial. The motion was heard and denied October 14, 2019. On November 18, 2019, Judge Benjamin held a sentencing hearing after which Barham was sentenced to 40 years for murder and burglary 1st and 5 years for conspiracy and the gun charge. Barham's motion for reconsideration of sentence was denied May 26, 2020. At none of his post-trial hearings did Barham raise a Rule 29(b), SCRCrP motion for a new trial base of after-discovered evidence even though he had discovered the alleged "new evidence" which is the basis for the motion on October 19, 2019 and his trial counsel was also aware of this new evidence. Barham filed a

1 Owen was indicted for the same crimes and pled guilty as indicted before Barham's trial.

direct appeal to this Court raising 3 issues. Respondent filed a responsive brief, and Barham filed a Reply. On October 18, 2021, through *appellate counsel*, Barham filed in this Court a Motion to Stay the Appeal and For Permission to File a Rule 29(b) Motion for New Trial based on After-discovered evidence in the Court of General Sessions. This is Respondent's Response in Opposition to that Motion. Because Barham's Motion does not sufficiently or accurately reflect the evidence against him at trial, Respondent will restate the relevant evidence presented at trial briefly.[2]

Abbreviated Statement of Facts

Victim Charles Kusko was murdered September 6, 2015, while asleep in his bed in the home he rented on Budon Court in Columbia S.C. from attorney Neal Lourie. Floyd Owen, a close friend of appellant, shot Victim and appellant Brandon Barham provided the murder weapon, a .45 caliber pistol, and drove Dean to Victim's residence to kill him in Barham's white truck, and drove Dean away from the crime scene.

The **testimony** and **evidence** showed Victim's murder was the result of a months' long dispute between Victim and his nephew appellant Brandon Barham ("Barham") over non-payment by Victim to Barham for work Barham had performed as a subcontractor to Victim. This dispute only grew and became more heated as events unfolded in the months and weeks before Victim's death. During that time, Barham discovered Victim was selling Barham's mother's personal property and stealing from her bank account; and, a friend of Barham's, Floyd Owen ("Owen") inserted himself into the dispute and was threatened by Victim with the loss of

2 Transcript citations for the "Abbreviated Statement of Facts" are contained in "Respondent's Statement of Facts" in the Initial Brief of Respondent filed with this Court.

Owen's children. As a result, in the early morning hours of September 6th, Barham and Owen agreed to and did, acting together, murder Victim.

The dispute began over money Victim owed Barham for work performed, which Victim admitted to his daughter he owed Barham and was refusing to pay. In October to December 2014, Barham and Victim repaired a collapsed retaining wall at attorney Lourie's home [not the Budon Ct home]. In February 2015, Barham and Victim put siding on Lourie's home. In March, Barham and Victim renovated the Budon Ct. home Victim was renting, paying inconsistent rent for, and Victim was going to buy and flip. On **May 28th**, Barham texted Victim that he needed to be paid for the work on the retaining wall because he was broke. Victim responded he agreed and he wanted to be paid by Lourie as well. Just a few weeks later, in **June**, Victim admitted to his daughter he owed Barham, but he was **not going to pay Barham** until Barham returned Victim's tools Barham had. The dispute continued into July. Lourie texted Victim on **July 7th** that Lourie was on his way to his office and would **cut a check** as soon as he got there. Lourie did not say he would cut 2 checks, 1 for Victim and 1 for Barham, but 1 check for both men. This text was to Victim only. Lourie testified he paid Victim by check. Barham then texted Victim on **July 25th** that Barham had still not been paid for the work at Lourie's and wanted to know why and threatened to go to Lourie's office and confront him about non-payment.

Just a few weeks later, at the **end of August / first of September**, a week before Victim's death, Barham did exactly as promised in the **July** text. He went to Lourie's office wanting to know if Lourie had paid Victim for the work on the retaining wall because Barham had not been paid. Lourie stated he would have to talk with Victim to see if Victim had paid Barham. On the Friday before Victim's death, **September 4th**, Lourie spoke with Victim in

person and Victim was adamant he paid Barham and told Lourie not to pay Barham anything. Lourie told Barham he was going to set up a meeting with both men to get to the bottom of the dispute because someone was lying to Lourie. As all this was occurring at the end of August / first of September, Barham was telling his uncle Andrew Kusko and Floyd Owen that Victim actually owed Barham $5,000 to $6,000 for work performed and was refusing to pay.[3] Barham also showed his uncle Andrew a .45 caliber pistol he had in a satchel. At this time, Barham also discovered Victim had stolen from Barham's mother's bank account $38,000-$39,000. Victim held power of attorney over Barham's mother's account.

Around the same time, Owen inserted himself into the situation by telling Victim's brother, Andrew Kusko, and Barham that Victim was selling or getting rid of Barham's mother's furniture. Victim in turn threatened Owen with losing Owen's children by reporting Owen's drug use to DSS.

Owen and Barham called Andrew intoxicated or high, and Barham and Owen were ranting about Victim, stating someone needed to do something about Victim and threatened to do something. Owen testified all of these factors led to Victim's murder on September 6th after he and Barham spent the night of September 5th and the early morning hours of September 6th drinking and doing drugs. He and Barham murdered Victim because Victim owed Barham money for work performed and refused to pay; Victim was also misusing Barham's mother's funds on himself, and finally Victim threatened Owen with the loss of his children. This was all

3 The additional $3,000 - $4,000 owed by Victim to Barham was for either putting siding on Lourie's home in February, for renovating the Budon Ct. address in March, which was for Victim, not Lourie, or some other work the 2 men had done together. (See State's 157, Barham's statement). Victim was originally supposed to move Barham's mother into the Budon Ct. home; but, Victim changed his mind and decided to buy the house from Lourie and flip it for a profit, leaving Barham's mother with a friend or relative.

discussed before the 2 men left Owen's home to commit the murder in the early morning hours of September 6th. In his statement to police a few days after the murder, which was audio recorded, **Barham denied there was any dispute** at all **with Victim and stated he and Owen were together all night, drinking and doing drugs, and neither he nor Owen committed the offense.**

Owen eventually could not live with what he had done and confided in his girlfriend what he had done and Barham's involvement. At Victim's funeral, Barham's uncle Andrew approached police and informed them of seeing Barham with the .45 shortly before the murder; and, that Barham told him after the murder that he had gotten rid of the gun.[4] Neither Barham nor Owen appeared at Victim's funeral. After the murder, Owen also confided in a friend his role and Barham's role in the murder, and Barham confirmed to the same friend he was involved in the murder of Victim. After repeated questioning, Owen eventually confessed to police, and his trial testimony was consistent with his final statement to police. He admitted he pulled the trigger and Barham provided the gun and drove him to and from Victim's home at the time of the crime. Video surveillance also captured Barham's truck lurking in the area of the Victim's home around the time of his murder. Cell phone records also revealed Barham and Owen texting each other the day before the murder, as well as texting Victim, and that Barham and Owen were together the night before the murder.

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4 Barham spends much time in his motion talking about evidence Andrew Kusko may have been involved in the murder, but video surveillance of Andrew's home revealed Andrew did not leave his home during the night of September 5th/6th. Further, Andrew testified he did not leave his home that night because he was expecting customers the next morning at his automotive shop. Floyd Dean also testified Andrew was not involved in the murder. And, even Appellant's "affidavit" does not claim Andrew was involved. Andrew was cleared by police of any involvement in the murder.

RESPONSE AND OPPOSITION TO THE MOTION TO STAY

Appellant moves to stay his pending appeal and for permission to file a Rule 29(b), SCRCrP, Motion for a New Trial based on alleged after-discovered evidence in the Circuit Court of General Sessions. The motion is based on what defense counsel or appellate counsel would under different circumstances typically call a "jailhouse snitch." The only difference now is appellant wants the "snitch" to be believed. The "jail house witness" name is Mikah N. Green. He claims he was housed prior to trial with Owen and for a time separately with Barham. He claims when he was housed with Owen, Owen told him he committed the murder alone because Victim touched his son. He also claims Barham, whom he befriended in jail, told him he was not involved. He admits he told Barham of his conversations with Owen around the time of his trial or shortly thereafter. The Motion to Stay and the Request for Permission to file a Rule 29(b), SCRCrimP Motion in Genera Sessions Court should be denied for the following reasons:

1. Rule 29(b), SCRCrimP, requires that a motion for a new trial based on after-discovered evidence be filed within one (1) year of the discovery of the after-discovered evidence. Rule 29(b), SCRCrimP. The Rule specifically states:

> A motion for a new trial based on after-discovered evidence must be made within one (1) year of the date of the actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence.

Rule 29 (b), SCRCrimP; State v. Dean, 427 S.C. 92, 103, 427 S.E2d 92 (Ct. App. 2019). Appellant admits in this current motion before this Court that **he**, appellant **Brandon Barham**, first became aware of this new evidence in October of 2019. In his motion Appellant states as follows:

> Appellant was approached in jail by Mikah Green **in October 2019**. Green had been previously housed in "H" dorm with Floyd Owen in

> the Alvin S. Glenn Detention Center in Columbia. Green informed Appellant that Owen said he "killed his boyfriend because the boyfriend touched his child." Owen stated he "drove truck to the boyfriend's house, then walked up to the house and unlocked the door with a key that he had" to the house. Owen shot the boyfriend and made it look like someone broke in.

(Barham's Motion to Stay the Appeal, p. 10, lines 15-20)(emphasis added). This was shortly after his conviction and around the time of his motion for a new trial hearing based on trial court rulings during his trial **and** before his sentencing hearing which occurred in November 2019. Yet, appellant did not raise a Rule 29(b) motion for a new trial based on this after-discovered evidence at either his post-trial motions hearing or at his separate sentencing proceeding.

The motion should be denied because it is untimely. The rule provides the time runs not just from actual discovery, but from "when the evidence could have been ascertained by the exercise of reasonable diligence. ..." Rule 29(b), SCRCrimP; *See also* State v. Dean, 427 S.C. 92, 103, 828 S.E.2d 243, 249 (Ct. App. 2019), *reh 'g denied* (June 21, 2019). Appellant does not present a colorable argument that the motion could be considered timely filed. *See* State v. Deese, 266 S.C. 534, 225 S.E.2d 175 (1976)(where defendant knew of evidence that would have identified another person as the participant in the crime, but waited until after the trial to present the witness (who claimed to be perpetrator of the crime) motion for a new trial was properly denied).

Barham further admits in his motion that not only **did he** become aware of this after-discovered evidence in October of 2019 **but his trial counsel became aware of this "new evidence" in October of 2019 also**, and his trial counsel initially pursued this "new evidence" but then decided not to pursue it any further at that time. Appellant's motion concedes as follows:

> On October 31, 2019, Stanley Myers Appellant's trial attorney, e-mailed is investigator, Keith Johnson, about going and talking to Green. According to Lindsey Barham, Appellant's wife, at some point Myers decided chasing down Green was not worth the time and informed Lindsey that his focus was on sentencing. Appellant was sentenced on November 18, 2019.

(Barham's Motion to Stay Appeal, pp. 11, line 22 – 12, line 4). As a result, his trial counsel also knew about this evidence and did not raise this "new evidence" in a timely Rule 29(b) Motion for a New Trial Based on After-Discovered Evidence from the time trial counsel discovered the evidence until 1 year later. State v. Strickland, 201 S.C. 170, 22 S.E.2d 417 (1942)(A defendant must exercise due diligence in timely filing a motion for a new trial soon after the defendant became aware of the after discovered evidence). Any Motion for a New Trial would be untimely. Rule 29(b), SCRCrimP.

2. Further, Appellant did not file a Motion for a New Trial Based on After-Discovered evidence upon receiving an Affidavit from the witness in October 2020. Instead he waited has waited almost two (2) years from the discovery of the after-discovered evidence to attempt to file a Motion for a New Trial based on After-Discovered Evidence. The Motion is untimely.

3. Any Rule 29(b), SCRCrimP, Motion for a New Trial, is untimely over appellate counsel's argument. The timeliness of the motion is not based on when appellate counsel learned of the new evidence but when **appellant** or his **trial counsel** learned of or discovered the new evidence, which was October of 2019. Any Motion for a New Trial based on after-discovered evidence in General Sessions Court would be futile and would unnecessarily delay this direct appeal.

As a result, the Motion to Stay and Request for Permission to file a Rule 29(b) Motion for a New Trial in the Court of General Sessions should be denied. Rule 29(b), SCRCrimP (a motion

for a new trial must be made within 1 year of the discovery of the after discovered evidence); State v. Strickland, 201 S.C. 170, 22 S.E.2d 417 (1942)(where no cause was shown for the delay in making the motion for a new trial, other than new counsel being retained, due diligence was not shown where the incident occurred on August 4, 1938; the cases were tried in April, 1939; and the motion for a new trial was made on or about February 1, 1940).

4. Finally, motions for new trials based on after-discovered evidence are also disfavored. State v. Rhodes, 44 S.C. 325, 327, 21 S.E. 807 (1895). Further, the alleged "new evidence" is merely impeaching. The witness' affidavit would not be admissible in court during a trial, only the witness' testimony would be admissible. That witness' testimony's only relevance would be to impeach Floyd Owen's testimony.[5] Therefore, any motion for a new trial on this basis would have to be denied. State v. Adams, 430 S.C. 420, 845 S.E.2d 217, **226-227** (Ct App. 2020)(holding pure impeachment evidence "can never justify granting a new trial."); State v. Caskey, 273 S.C. 325, 329-30, 256 SE2d 737, 739 (1979)(statements were merely impeaching). State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998); State v. Prince, 316 S.C. 57, 447 S.E.2d 177 (1993)(evidence must not be merely cumulative or impeaching). *Compare* State v. Dean, 427 S.C. 92, 106, 828 S.E2d 243 (Ct. App. 2019)(where defendant alleged after-discovered evidence of a Brady/Giglio/Napue violation, the Court found statements of Solicitor at co-defendant witness' sentencing regarding promises made to co-defendant witness were different to representations state made to court pre-trial, during trial, and after trial, and were never disclosed to the defense, were material, and were not merely impeaching).

A new trial will rarely be granted simply because the defense, post-trial, can produce

5 The witness could not testify to what Barham told him in jail; as this Court knows, that would be patent self-serving hearsay.

witnesses that contradict or impeach state's witnesses. As a general rule, newly discovered evidence which merely impeaches or contradicts the testimony of a witness at the trial affords no sufficient grounds for a new trial. State v. Clamp, 225 S.C. 89, 80 S.E.2d 918 (1954); State v. Strickland, 201 S.C. 170, 22 S.E.2d 417 (1942); State v. Pittman, 137 S.C. 75, 134 S.E. 514 (1926); *Compare* State v. Bethune, 104 S.C. 353, 89 S.E. 153 (1916)(finding contradictory statement of an Assistant Solicitor, an officer of the court, as to what a witness said on a critical or vital point, stood on a different footing than that of other witnesses and warranted a new trial). The only exception to the general rule that impeaching evidence is not sufficient for the granting of a new trial is when it is made clear by the after-discovered evidence that a witness was mistaken in giving the only or controlling testimony to a material fact, or that the testimony of witnesses on which a verdict proceeded was founded on circumstances which have been clearly falsified. Pittman, *supra*; State v. Tripp, 133 S.C. 294, 130 S.E. 888 (1925)(The exception to the general rule, is when the impeaching evidence is so directly applicable to the main point involved that it may serve as a basis for granting a motion for a new trial). Historically, jail house informants or jail house witnesses, such as the witness upon which appellant relies, have historically been rejected by our appellate courts as the basis for granting a motion for a new trial based on after-discovered evidence. *See* State v. Mercer, 381 S.C. 149, 672 S.E.2d 556 (2009); State v. Morrison, 246 S.C. 575, 145 S.E.2d 15 (1965); State v. Mayfield, 235 S.C. 11, 109 S.E.2d 716 (1959); State v. Griffin, 100 S.C. 331, 84 S.E. 876 (1915).

In Griffen, 100 S.C. 331, 84 S.E. 876, the Court held the trial judge properly denied a motion for new trial based upon after discovered evidence, where two women who were inmates with a witness for the State, and such women presented affidavits to impeach the

State's witness regarding declarations by the witness while incarcerated. The Court found it would be utterly unsafe to upset the verdict of a jury upon evidence of that character, even if the court was disposed to consider it. In State v. Marks, 70 S.C. 448, 50 S.E. 14 (1905), where a motion for a new trial was before the Court based on impeaching evidence, the Court stated:

> Whether the deceased had a knife in his hand during the difficulty with the defendant was strenuously contested on the trial, and to reopen the matter, merely because someone has been discovered who has heard one of the state's witnesses make statements contradictory to his testimony on the trial, would establish a dangerous precedent. In denying a motion made on a similar ground in State v. Workman, 38 S.C. 550, 16 S.E. 770, the Court said: "If such a ground be held sufficient to sustain a motion like this, it would be opening the door to fraud and perjury, and cause interminable delay in the trial of causes."

Marks, 70 S.C. at 449-50, 50 S.E. at 15.

Here, appellant offers the affidavit of a cellmate or cell block mate of appellant after his trial, that even his own trial counsel did not pursue. (See Appellant's Motion to Stay the Appeal). The affidavit is of a dubious nature and the jury would have found any testimony of this witness the same. Further, the affidavit is discredited. Owen did not plead guilty to a 30 year deal as the witness alleges. Owen pled straight up before the same judge who heard appellant's trial and was sentenced to 48 years for murder and burglary 1st degree.[6] There is no reasonable likelihood this cell-mate or jail house witness type testimony would change the result of the trial if a new trial were granted, and it is merely impeaching testimony, even if believed. State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998); State v. Prince, 316 S.C. 57, 447 S.E.2d 177 (1993); State v. Irvin, 270 S.C. 539, 243 S.E.2d 195 (1978)(evidence could have been located with due diligence

6 This is according to the Richland County Fifth Judicial Circuit Public Index. (See Attachment 1 to this Response). This Court can take judicial notice of its own records.

and was merely impeaching). Further, if true, it could have been discovered before trial by merely interviewing inmates who resided in the same cell block with Floyd Owen. *See* State v. Freeman, 319 S.C. 110, 459 S.E.2d 867 (Ct.App.1995)(defendant could have discovered such evidence with due diligence). Even if the Rule 29 motion appellant proposes was timely, respondent submits appellant's affidavit does not meet the after-discovered evidence test sufficient to grant him a new-trial. Further, appellant has not filed a supporting affidavit setting forth when he learned of this new evidence. State v. DeAngelis, 256 S.C. 364, 182 S.E.2d 732 (1971)(When the motion for relief is based upon affidavits, as opposed to testimony, it is essential that such motion be supported by an affidavit of the defendant himself). The motion to stay and for permission to file a Rule 59, SCRCrimP, motion for a new trial based on after-discovered evidence should be denied.

CONCLUSION

For the above stated reasons, Barham's Motion to Stay the Appeal and for Permission to File a Rule 29(b), SCRCrimP, Motion for a New Trial in Circuit Court should be denied.

Respectfully submitted,

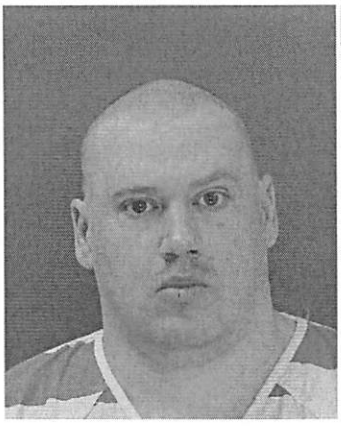
By: s/ J. Anthony Mabry
J. ANTHONY MABRY
Senior Assistant Attorney General
Office of Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-6305

October 20, 2021

ATTACHMENT #1

INMATE SEARCH DETAIL REPORT

OWEN, FLOYD GREGORY (00339771)



INMATE DESCRIPTION

SEX:	MALE
RACE:	WHITE
HEIGHT:	6' 02"
WEIGHT:	260 lbs.
AGE:	37
CITIZENSHIP:	CITIZEN - NATIVE BORN
BUILD:	MEDIUM
COMPLEXION:	FAIR
HAIR COLOR:	BLOND OR STRAWBERRY
EYE COLOR:	GREEN
PICTURE DATE:	11/22/2019

INMATE SENTENCE AND LOCATION

SCDC ID:	00339771
SID:	SC01531663
OFFENDER TYPE:	ADULT-STRAIGHT SENTENCE
ADMISSION DATE:	11/22/2019
LOCATION:	LEE
DORM-ROOM-BUNK:	F2B-2216-T
EWC LEVEL:	2F5
EEC LEVEL:	
PROJECTED RELEASE DATE:	05/26/2065
PROJECTED PAROLE ELIGIBILITY:	NOT ELIGIBLE
SUP. FURLOUGH ELIGIBILITY:	NOT ELIGIBLE
SUP. RE-ENTRY DATE:	NOT ELIGIBLE

CURRENT OFFENSES

OFFENSE	SENTENCE TYPE	YRS	MOS	DYS	COUNTY	START DATE	V/NV	CAT	INDICT	STATUS
BURGLARY-1ST DEGREE	ADULT-STRAIGHT SENTENCE	48	0	0	RICHLAND	06/07/2017	V	4	17GS4007155	ACTIVE
CRIMINAL CONSPIRACY	ADULT-STRAIGHT SENTENCE	5	0	0	RICHLAND	06/07/2017	N	2	17GS4007157	ACTIVE
MURDER	ADULT-STRAIGHT SENTENCE	48	0	0	RICHLAND	06/07/2017	V	5	17GS4007153	ACTIVE
FIREARMS PROVISION	ADULT-STRAIGHT SENTENCE	5	0	0	RICHLAND	06/07/2017	N	3	17GS4007156	ACTIVE

ESCAPES

NO ESCAPES DURING CURRENT INCARCERATION

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

NO DISCIPLINARIES DURING CURRENT INCARCERATION

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
03/09/2020	LEE	INCARCERATED	ADMINISTRATIVE
11/22/2019	KIRKLAND	INCARCERATED	NEW ADMISSION

EARNED WORK CREDITS

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
HORTICULTURIST (GRND)	12/03/2020			2F5
GENERAL WORKER	03/31/2020	12/02/2020	LATERAL TRANSFER	2F5

EARNED EDUCATION CREDITS

NO EARNED EDUCATION CREDITS DURING CURRENT INCARCERATION

CERTIFICATES

NO CERTIFICATES DURING INCARCERATION(S)

PROGRAMS
NO PROGRAMS DURING INCARCERATION(S)

Richland County
Fifth Judicial Circuit
Public Index

Switch View

State of South Carolina vs Floyd Gregory OWEN

Case Number:	**2017A4021601400**	**Court Agency:**	**Richland County General Sessions**	**Filed Date:**	**07/18/2017**
Case Type:	**Richland-Clerk**	**Case Sub Type:**			
Status:	**Disposed**	**Assigned Judge:**	**Kelly, Brian A.**	**Disposition Judge:**	**Benjamin, Deandrea G**
Disposition:	**Pled Guilty**				
Disposition Date:	**11/18/2019**	**Date Received:**	**07/18/2017**	**Arrest Date:**	**06/10/2017**
Law Enf. Case:	**150024646**	**True Bill Date:**	**12/07/2017**	**No Bill Date:**	
Prosecutor Case:		**Indictment Number:**	**2017GS4007153**	**Waiver Date:**	
Probation Case:					

Case Parties **Charges** **Sentencing** Associated Cases **Actions** **Financials** Bonds

And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	48 years						
	Credit Time Served						
	Concurrent Sentence						

RECEIVED
Oct 20 2021
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STATE OF SOUTH CAROLINA
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Appeal from Richland County
The Honorable DeAndrea G. Benjamin, Circuit Court Judge

THE STATE, **Respondent,**

vs.

CHARLES BRANDON BARHAM,

Appellant.

Appellate Case No. 2019-001981

CERTIFICATE OF SERVICE

I, Brandy Rankin, as an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the *Return and Opposition to Motion to Stay Appeal and For Permission to File Rule 29(b), SCRCrP, Motion for a New Trial*, *Attachment 1*, and *Certificate of Service* have been forwarded to Appellant's counsel, Jack B. Swerling, Esq., via email today, October 20, 2021 @ jacklaw@aol.com, Alissa L. Wilson, Esq. @ awilson@jbswerling.com, and to Katherine Carruth Goode @ kcg@carruthgoode.net.

I further certify that all parties required by Rule to be served have been served.

This 20th day of October 2021.

s/Brandy Rankin
Brandy Rankin
Legal Assistant to J. Anthony Mabry
Senior Assistant Attorney General

Brandy Rankin

From: Brandy Rankin
Sent: Wednesday, October 20, 2021 4:10 PM
To: 'jacklaw@aol.com'; 'kcg@carruthgoode.net'; 'awilson@jbswerling.com'
Cc: Anthony Mabry; Melody Brown
Subject: Charles Brandon Barham - Return and Opposition to Stay Appeal for Permission to File Rule 29(b) SCRCrP, Motion for a New Trial, Attachment 1 of 1, and Certificate of Service, Case No. 2019-001981
Attachments: Return and Opposition to Motion to Stay Appeal and for Permission to File Rule 29(b), SCRCrP Motion for a new Trial, Approved JAM, (02791767xD2C78).pdf; Attachment 1 to Return in Opposition to Motion to Stay Appeal, 10-20-21 (02791466xD2C78).pdf; Certificate of Service to Return in Opposition to Motion to Stay, 10-20-21, Barham (02791464xD2C78).pdf

Follow Up Flag: Worldox

Dear Mr. Swerling, Ms. Goode and Ms. Wilson,

Please find attached the Respondent's Return and Opposition to Motion to Stay Appeal and For Permission to File Rule 29(b), SCRCrP, Motion For a New Trial, Attachment 1, of 1, and Certificate of Service. These documents will be filed today, October 20, 2021 with the South Carolina Court of Appeals. Hope this finds you all well.

Sincerely,

Brandy Rankin

Brandy Rankin, Legal Assistant
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