

State of South Carolina  
In the Court of Appeals

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SC Court of Appeals

Appeal from Pickens County  
Alex Kinlaw Circuit Court Judge

The State

Respondent

✓

Appellant

Braylan Morris

Appellate case # 2022-000898

Brief

Breen Stevens

Appellate Defender

SecID

Division of Appellate Defense

PO Box 11589

Columbia, SC 29211-1589

Attorney for Appellate

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### Standard of Review

Appellate Review of a Motion to Suppress on 4<sup>th</sup> Amendment involves a 2 Step Analysis *State v. Frazer* (437 Se 625). The trial court erred in factual findings are reviewed for any evidentiary support, while the ultimate legal conclusion is a question of law subject to de novo review (437 Se 634)

(Table of Authorities)

Cases)

Franks v. Delaware (438 U.S. 154)

Napue v. Illinois (360 U.S. 264)

Illinois v. Gates (462 U.S. 213)

State v. Dupree (354 S.C. 676)

State v. Fraizer (437 S.C. 625)

State v. Johnson (302 S.C. 243)

State v. Jones (342 S.C. 121)

State v. Owen (275 S.C. 586)

State v. Weston (329 S.C. 287)

U.S. v. Laylor (996 F.2d 1578)

Carr v. Seal (141 S.Ct. 1352)

Historical Charleston Foundation v. City of Charleston (400 S.C. 181)

State v. Evans (319 S.C. 320)

State v. Brown (343 S.C. 342)

U.S. v. Tejada (2011 WL 3891825)

Crawford v. Washington (541 U.S. 36) Didn't face my Accuser CI or Magistrate Judge

State v. Gray (Ct App 2022 WL 17171094) Evidence must be Authenticated or

Identified in order to be admissible.

State v. Fletcher (379 S.C. 17) This other Bad act must be excluded

if prejudicial effect outweighed Probative value

Constitutional Provisions and SC Statutes and codes)

(Sec) 14-7-1630, (Sec) 17-30-65, (Sec) 27-2-105 (A)(1), (Sec) 17-30-145,

(Sec) 17-30-110, (Sec) 15-7-30, (Sec) 17-30-70, (Sec) 17-30-15 (EXA) (Sec) 6-29-840

(Sec) 17-30-80, Tariff Act 1930 Sec 595, 19 USCA Sec 1595 = May Not

properly issue a Search Warrant unless Have a Sworn testimony of Facts

Not Assumptions or Suspicions

State v. Stokes (381 S.C. 390)

Goldsmith v. Witkowski (981 F.2d 697)

Gantt v. Selph (423 S.C. 333)

State v. Herring (387 S.C. 201)

State v. Gentry (363 S.C. 93)

U.S. v. Berger (295 U.S. 78) 1935

U.S. v. Hall "989 F.2d 911" U.S. Ct App

U.S. v. Check (582 F.2d 668)

U.S. v. Cargill (2001 WL 1019312) U.S. App Ct 4th Cir

U.S. v. Wong (371 U.S. 471)

U.S. v. Lyles (910 F.3d 787)

U.S. v. Nathanson (290 U.S. 41)

State v. Hucker (353 S.C. 56)

Terry v. Ohio (392 U.S. 1)

(Arguments to ADD to Brief)

①

ISSUE = Falsified testimony from Law enforcement. Chet Anthony was Allegedly Notified By Greenville Investigator (Inadmissible Hearsay testimony and Started illegally surveillancing for that case. R. 109 Line (17-18) officer Chet Anthony Made a Falsified testimony about Deputy Ross Having a Body camera (But Never Introduce the evidence Showing Degree of Proof) R. 143 Line (7-9) The Court Denied motion to Mention anything about Drug transaction, Confidential Informant etc... However the State Knowingly introduced inadmissible evidence Artfully cross ~~examination~~ <sup>Examination</sup> Mentioning Confidential Informants, Surveillance, Asking Jeremy Jones why do they use Confidential Informants? R. 160 Line (8-25) R. 161 (1-3) R. 163 Line (1-3) Jeremy Jones Falsified testimony of No women's clothes were there, when Heidi Merrinweather wrote A Statement about living there ~~essentially~~ knowing about everything was found their R. 153 Line (7-9) officer Kevin Durham Falsified testimony of No women's clothes being in the Home and have photographs of other items Proving what Firearms and drugs were found. R. 143 (7-9) The Court Denied the Motion to Mention Anything about Drug transaction, Confidential Informant etc. and The State (Solicitor) Did an OBVIOUS cross examination questioning Investigator Jeremy Jones about the Money Being Found Asking "Did the \$2,000 indicate the Defendant Selling Drugs? Insinuating Drug Dealing Introducing Inadmissible evidence R. 167 Line (5-6) The Judge Sustained the comment (But the Jury Heard it Implying guilt allowing the Prejudicial effect outweigh the probative value 403 Analysis violation (error) Prosecution MISCONDUCT. Case U.S. v. Cargill (2001 WL 1019312) US Ct App 4<sup>th</sup> CIR ② Criminal Law = To obtain a new trial, the Defendants only had to show that prosecutor used False testimony that could effect the Judgment of the Jury and the Judge.

Napue v. Illinois (360 U.S. 264) U.S. Sct ① Argument The US Supreme Court granted certiorari to consider question whether petitioner was Denied Due process of Law in violation of 14<sup>th</sup> Amendment to the Federal Constitution Because Important witness for the State in Murder Prosecution of Petitioner falsely testified that witness had received No Promise of consideration in Return for his testimony though in Fact Assistant State's Attorney had Promise witness consideration (C.I) ② Argument = Use of Perjured or falsified evidence, Failure to correct false testimony ≠ Conviction obtained through false testimony known to be such by Representatives of the State, is Denial of Due Process, there is also Denial of Due Process, when the State, though Not Soliciting False evidence, allows it to go uncorrected when it appears 14<sup>th</sup> Amendment violation. FRANKS v. Delaware

(438 U.S. 154) test Proof the Probable cause is a lie, where Defendant makes Substantial Preliminary Showing that False Statement from the State (Solicitor) and Law enforcement knowingly and intentionally having a Reckless disregard for the truth, was included by affiant in Search Warrant, and if allegedly False Statement is necessary to find Probable cause (Intrusion) R. 50 Line 25

" No independent sworn testimony given to the Magistrate. ~~the~~ NO connection was established R. 51 Line (5-25) pure suspicion and Assumption. U.S v. Nathanson

(290 U.S. 41) Tariff Act 1930 Sec 595, 19 USCA Sec 1595 under 4<sup>th</sup> Amendment, an officer may not properly issue a Search Warrant to Search a private Dwelling unless he can Find Facts therefor from Facts or circumstances presented to him under Oath or Affirmation. Mere Belief or Suspicion is Not enough. State v. Jones (342 S.C. 121)

The Search Warrant Affidavit was insufficient to establish Probable cause without the Affiant's False Statement R. 54 (Informant was being Monitored by Surveillance and Recording Devices (Sec) 17-30-65 "order of Authorization" was Not given

U.S. v. Berger (295 U.S. 78) 1935 US Attorney is AS MUCH HIS Duty to Refrain From Improper Conduct Methods Calculated to Produce a Wrongful Conviction as it to use every legitimate Means to Bring a Wrongful Conviction (295 U.S. 84) the United States prosecuting Attorney overstepped the Bounds of that propriety and Fairness which should characterize the conduct of such officer in the Prosecution of a Criminal offense is clearly Showing the Record...

3.8 Special Responsibilities of Prosecution [7] Paragraph (g)(1)(A)(2) comments, editors Note consistent & objectives of Rules 4.2 & 4.3, ~~disclosure~~ Disclosure to A Represented Defendant must be Made through HIS counsel. U.S. v. Hall "989 F.2d 711" (US Ct App 4<sup>th</sup> Circuit, 1993) Protections Against the use of Privileged and Inadmissible evidence would be little Benefit if the Prosecutors were allowed, under the guise of Artful cross examination, "to tell the Jury or Judge the substance of Inadmissible evidence."

Gold Smith v. U.S. (981 F.2d 704) Reversal Required when prosecution Presented Inadmissible evidence the Back Door U.S. v. Check (582 F.2d 668) Reversal Based on Prosecutor's "Transparent" Introduction of Inadmissible Hearsay Through Artful cross examination Falsified Probable cause in Pretrial... Gantt v. Selph (423 SC 333)

Lack of Subject Matter Jurisdiction (civil case) may Be Raised at any time. Sec 27-2-105 (A)(1) South Carolina Geodetic Survey shall Seek to clarify Counties Boundaries, Not THE Trial Court allowing the clerk of court Pat Welborn Determine Jurisdiction in South Carolina. R. 129 Line (4-5) The State Introduced unrelated Murder to the court allowing The Prejudicial effect outweighing the probative value 403 analysis Being violated.

R. 130 Line (11-15) 1<sup>st</sup> Alleged Buy 8/22/18, 2<sup>nd</sup> 11/8/18 execution of Search warrants on Nov. 15 8 days after Alleged transaction, the State falsely testified 3 days prior. Trial Court failed to conduct an 403 analysis of Pretrial Probable cause Prejudicial effect outweighed Probative Value.

-The Determination of Prejudiced caused By other Bad Acts must Be Based on the entire Record, and the Result will turn on the Facts of each case  
 SER EVID 403, 404(B) Degree of Proof = For evidence of Prior Bad acts is admissible under other crime Rules It must be excluded if its Prejudicial effect outweighs probative value ~~substantially~~ Substantially Having Dangers of Unfair Prejudice to the Defendant  
 SER EVID Rule 403, 404(B) Evidence calculated to create Prejudice against the accused State v. King (424 SC 188)  
 Trial court erred By Not Conducting an 403 analysis At all Before Deciding to Admit evidence of unrelated murder charge error in allowing the State to play a Portion of Defendant's Recorded interview referencing unrelated murder charges was Not Harmless (Citing State v. Morris) State introduced unrelated murder charge to Trial court.  
 Law enforcement never presented a warrant when they entered the Home. Trial court erred Failing to Squash the Search warrant of the Residence for lack of Probable Cause and Suppress all evidence Found AS A Result of the Search. Goldsmith v. Witkowski (981 F.2d 697) US Ct App 4th Cir

① evidence was constitutionally insufficient to support finding that Petitioner Had Dominion and control over Marijuana or Cocaine as Required for finding that Petitioner Had Possession of either Drug and, thus evidence was Insufficient to Support Possession convictions (3) Deputy's Hearsay testimony that Law enforcement officers served Search warrant Because they Had Information that Petitioner and C.I. Should be present at the time Violated 6th Amendment Confrontation clause and constituted Reversible Error. Beavers v. Herkel (194 US 73) Sct ① Criminal Law = In Proceedings For Removal of an ~~accused~~ <sup>Accused</sup> to another District For trial, an Indictment is Prima Facie evidence of Probable cause. US v. Leon (468 US 897)

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State v. Johnson (302 SC 243) lack of probable cause, because the informant's allegations were not corroborated and the reliability of the informant was not set forth (The US Supreme Ct adopted a "totality of the circumstances" test to assess informant information as basis for probable cause Affidavit (Illinois v. Gates) (462 U.S. 213)). \*\* No facts of sworn testimony to prove drugs was in the house the Affidavit did not provide the Magistrate with sufficient information concerning the informant's reliability, which he based a probable cause // sufficient information must be presented to Magistrate to allow them official to determine probable cause. His action can't be mere ~~ratification~~ Ratification and bare assumptions of others (State v. Robinson (405 SC 60)).

Can a court consider inadmissible evidence on a motion for summary judgment? Evidence which is inadmissible at trial, can't be considered on a motion for summary judgment. A dismissed case is inadmissible to introduce into evidence because the prejudicial effect will outweigh the probative value. Warrant #2018A2330210438. Trial court "lacked subject

Matter Jurisdiction The doctrine of Res Judicata does not apply to issues of subject matter jurisdiction, unless there has been an indictment for Warrant #2018A2330210438 which sufficiently states the offense; there was no waiver of indictment because lack of subject matter jurisdiction was argued.

State v. Brown (343 SC 342) Sup Ct 2001, State v. Evans (319 SC 320) SC Code Ann. 14-7-1630(A)(1) The jurisdiction of a state grand jury impaneled under this article throughout the state. Facts supporting the grand jury jurisdiction must be ~~set forth~~ set forth in indictment which fails to allege the offense charge has significance impact in other counties (in addition to the county which the offense is alleged to occur is fatally defective (State v. Wilson (315 SC 289)).

SC 14-7-1630(A)(1) The state can't bootstrap alleged multi-county significance from other (indictments or non convictions) for which the defendant is not being tried to convey multicounty significance to an indictment which does

Not Already Meet the Requirements. (The trial ~~error~~ <sup>court</sup> erred in Res Judicata Because the State DID NOT prove the alleged crime involved even existed. (Falsified testimony) From Prosecution = Reckless Disregard for the truth. (Administrative Issues) Administrative Law and Procedure = The Desirability of a Court Imposing an Issue exhaustion Requirement on review of Administrative Decision Depends on the Degree to which the analogy to normal Adversarial litigation Applies in a particular administrative proceeding. (Zoning Issues = Unlawful Spot Zoning (Zoning and planning) (Sec) 6-29-840. (Argument) What Statute gives you the Right to come to the Court of Appeals arguing the Wiretap? (Sec 17-30-110) Does! Why is that? They Have to go to the Reviewing Authority who has to notify the Issuing Judge who must transfer the copies of the the contents and other Documents...

The State Never Introduced a (order of Authorization) using Recording Devices and Wiretap Surveillance. 17-30-65 The Wiretap evidence could not be challenged within my trial proceedings the transcript R. 51 Line (17-19) (Trial Counsel raised) a Motion for a "Direct Verdict" meaning the State DID NOT prove any evidence to convict the Defendant of his charges R. 208 Line 17- R. 209 Line 1-2 (Trial Counsel) objected to Admissibility of evidence and Judge Kinlaw Noted It R. 269 Line 15-19, This could have Determine the outcome of my Verdict By Jury.

(The trial court erred) in Not granting a mistrial when one of the Jurors were sleeping During trial, it effected the verdict of A Not Guilty or Hung Jury. R 192 (1-3) Line (U.S v. Goldsmith (901 F.2d 70) Reversal Required when prosecution use inadmissible evidence.

Reversal Based on Prosecutor's "transparent" introduction of inadmissible Hearsay through Artful Cross-examination. The Government Received the Benefit of Having, in effect, an additional witnesses

Trial Court Judicial Conduct Abuse of Discretion By Directing the  
 Prosecution to Perform His Responsibilities of Drawing up the Jury Verdict  
 From While "Stating" that MS. Owens is such a nice lady (Bres) R. 214  
 Line 13-15) Request the State Prosecution to prepare the Jury  
 Instructions R 217 (Line 1-23) The State cross examined Clerk of  
 court Pat Welborn R. 49 Line (16-18) Asking the Clerk of court if he was  
 A property owner would he pay taxes in the wrong place 801  
 Hearsay testimony (Inadmissible) Spot zone issue.  
 (Statement of case) Appellate Braxton Morris was indicted by Pickens  
 County Grand Jury on July 11, 2019 for the following five offenses ①  
 Trafficking Heroin 28g or more ② Trafficking Meth (10-28g) ③ PWID Cocaine ④  
 Unlawful possession of a weapon ⑤ Possession of weapon During violent  
 crime R. 8 Line 15- R 10 Line 9 R. 288-297. The charges arose  
 from illegal search and seizure of lawless police conduct with Appellate  
 and his girlfriend on Nov. 15, 2018. Appellate case was called before  
 Judge Kinlaw and a Jury from June 15-16<sup>th</sup> 2022. Appellate was  
 represented by Randy Chambers while Katrina Bevis Owens  
 represented the State Appellate was unlawfully sentenced to 28 yrs

⊗ "Judge of competent jurisdiction" means a circuit court judge designated by Chief Justice Supreme Court of the State of South Carolina.

(9) "Reviewing Authority" means a panel of 3 Judges of South Carolina Court of Appeals designated by Chief Judge of South Carolina Court of Appeals

(10) "Aggrieved person" means a person who ~~was~~ was a party to any intercepted wire, oral, or electronic communication or a person against whom the intercepted was directed. 4<sup>th</sup> Amendment violation Terry v. Ohio (392 US 1)

Criminal Law = Major thrust of Rule excluding evidence seized in violation of 4<sup>th</sup> Amendment violation ~~is~~ is deterrent to discourage lawless police conduct. But it also serve as a function as imperative of judicial integrity since courts will not be made party to lawless invasions of constitutional rights of citizens by permitting unhindered governmental use of poisonous fruits of illegal invasions

~~...~~ R.56 Line (1-21) The probable cause is based off Greenville County Incident Report which stated I Braylon Morris lived at 124 Donna Ln, so just because I left 200 Glenda Lane one day does not establish probable cause of a nexus (connection)

That I have dominion and control over this domain residence R.53 Line 8-25 Katrina Owens (the State) knowingly introduced perjured testimony as her only probable cause (open the door doctrine)

⊗ Pickens county has no supplemental Report stating they conducted an investigation (falsified testimony)

⊗ Reob The court of Appeals is the only <sup>place</sup> ~~place~~ you can mention wiretap if there is a problem with the legality of the wiretap ⊗ There is a problem with wiretap because tangible evidence was never shown in court

see (17-30-05) CONCLUSION

(Based on All the obvious errors Reversal and Remand for new trial.)

Braylon Morris SCCH 347230  
Tygal King Court, Fwy  
200 Reason Rd  
Eads, MO 64701

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