

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from York County

Lee S. Alford, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JASON ALAN JOHNSON,

APPELLANT

APPELLATE CASE NO. 2012-207549

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FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1.

Whether the trial court erred in denying appellant's suppression motion because the warrant was obtained after an illegal entry and warrantless search and the subsequent warrant was obtained without probable cause?

2.

Whether the trial judge erred in ruling as a matter of law that the all of the liquid which contained methamphetamine would count towards its weight, admitting such evidence, and ordering defense counsel not to argue to the jury whether all of the liquid was methamphetamine, because this violated the meaning and intent of the statute defining "methamphetamine" and the utilization of this overly broad interpretation deprived appellant of his Sixth Amendment right to a jury trial?

## STATEMENT OF THE CASE

On June 16, 2011, Jason Alan Johnson (“Johnson”) was indicted for trafficking methamphetamine in excess of 100 grams R. 917. On January 23-27, 2012, Johnson was tried in York County before the Honorable Lee S. Alford and a jury. R. 1. Michael Brown, Jarrus Yates, and Bradford Rawlinson represented Johnson. R. 1. Jennifer Colton and Teasa Weaver represented the State. R. 1. The jury found Johnson guilty of trafficking methamphetamine in an amount over 28 grams. R. 908, ll. 1 - 8. Judge Alford sentenced Johnson to twenty-eight years’ imprisonment. R. 915, ll. 19 - 25. On February 2, 2012, Johnson served his notice of appeal. This appeal follows.

## ARGUMENT

1.

The trial court erred in denying appellant's suppression motion because the warrant was obtained after an illegal entry and warrantless search and the subsequent warrant was obtained without probable cause.

### **Relevant Facts**

On February 26, 2011, an arrest warrant was issued for Brandi Quinn ("Brandi") for malicious injury to property. R. 14, ll. 3 – 19. Early the next morning, York County Sheriff's Deputy John Stagner located Brandi's car at the Best Way Inn in Rock Hill. R. 15, ll. 4 – 10. Deputy Stagner kept watch on Brandi's car while awaiting the arrival of backup officers. R. 58, l. 21 – 59, l. 4. Deputy Tony Bolin and Deputy Rachel Gladden arrived at the scene. R. 59, ll. 5 – 7. Deputy Bolin verified which room was Brandi's. R. 59, ll. 17 – 21. Deputy Gladden had the arrest warrant. R. 170, l. 25 – 171, l. 23. On the officers' way to the room, Deputy Gladden told the other officers there would probably be drugs in the room. R. 193, ll. 21 – 23. It was 8:30 AM on Sunday morning. R. 111, ll. 6 – 16.

The officers began banging on the door and asking Brandi to come to the door. R. 175, ll. 4 - 15. It took a couple of minutes for Brandi to answer the door. R. 61, ll. 2 – 4. The officers could hear movement and whispering inside the room. R. 61, ll. 5 – 9. Deputy Stagner testified that this made him concerned for his safety. R. 61, ll. 13 – 19. Brandi opened the door only enough to show her face. R. 62, ll. 7 – 14. Deputy Stagner claimed he had "an [eerie] feeling" and the officers barged into the room. R. 62, ll. 7 – 25.

Within 20 to 30 seconds, Brandi was arrested, in handcuffs, and outside the room. R. 193, l. 24 – 194, l. 4; R. 33, ll. 5 – 8. Deputy Stagner testified that Brandi “was being placed in handcuffs as we were going in.” R. 98, ll. 17 – 24. Deputy Bolin testified that they had already detained Brandi and passed her behind them to Deputy Gladden before they entered the hotel room. R. 34, ll. 2 – 8.

After arresting Brandi and entering the room, Deputy Stagner testified that he saw movement underneath the sheets of a bed. R. 63, ll. 4 – 8. Deputy Stagner yelled for the person in the bed to show his hands. R. 99, ll. 20 – 22. Defendant Johnson was the person in the bed and immediately showed his hands to Deputy Stagner. R. 99, l. 20 – 100, l. 1. Deputy Stagner claimed that at this point, Johnson put his hands back under the covers. R. 100, ll. 2 – 9. Deputy Stagner raised the volume of his verbal commands and again yelled for Johnson to show his hands. R. 100, ll. 8 – 13. Johnson again complied and showed the deputies his hands. R. 113, ll. 24 – 25. The deputy never said “show me your hands and keep them out.” R. 114, ll. 6 – 8. Deputy Stagner then “immediately put hands on and detained” Johnson. R. 64, ll. 6 – 8. Deputy Stagner testified that Johnson, who was only wearing a pair of boxer shorts and laying in bed early on a Sunday morning, posed a threat because he saw “gang-related tattoos.” R. 65, ll. 6 – 10. R. 111, 21 – 25. Corey Catoe, another occupant of the room who was also in bed asleep, also complied with officer’s instructions to show his hands, but Deputy Bolin immediately placed Catoe in handcuffs, too. R. 65, ll. 12 – 13.

None of the occupants of the room made any threatening moves towards Deputy Bolin. R. 42, ll. 13 – 15. None of the occupants of the room ever made any threatening movements or verbally threatened Deputy Stagner. R. 113, ll. 13 – 18. The occupants of

the room had been sleeping. R. 112, ll. 1 – 3. The officers woke them up. R. 112, ll. 4 – 5. Even though the arrest warrant for Brandi had been executed and accomplished, the officers entered and stayed in the room. R. 116, l. 25 – 117, l. 3.

Deputies Stagner and Brown then began “a protective sweep” of the room. R. 19, ll. 17 – 20. Deputy Bolin testified that he saw computer equipment; aluminum foil that he thought was consistent with drug packaging, syringes, and razor blades. R. 24, ll. 2 – 12. Deputy Stagner testified that he saw a digital scale. R. 69, ll. 12 – 15. Brandi never gave consent to search the room. R. 86, ll. 22 – 25. The officers never asked Johnson or Catoe for consent to search the room. R. 89, ll. 19 – 21. Johnson asked for a lawyer and told officers they needed a search warrant. R. 90, ll. 14 – 18.

Deputy Gladden called another police officer and got him to obtain a search warrant. R. 185, ll. 7 – 16. The search warrant stated the reason for the search:

Deputies arrested a female suspect from this room on a warrant for malicious injury to property. While deputies were in the room, deputies observed numerous laptop computers and electronic equipment, two unused syringes, a package of razor blades, and multiple small tin foil packages consistent with that of drug packaging. The female suspect taken into custody also has a prior drug-related conviction.

R.920. Deputy Bolin testified that he did not notice any drugs on the syringes nor any drugs in the tinfoil. R. 45, ll. 2 – 10. Deputy Bolin testified that they had no information or evidence that the computer parts were stolen. R. 38, l. 18 – 39, l. 13. He claimed that their probable cause that a crime of been committed was because of the “amount of time that [the occupants] were in the hotel room, the amount of computers in the – in the hotel room, and the work that was being done to them.” R. 39, ll. 23 – 25.

While waiting on the search warrant, all three of the officers kept going in and out of the room. R. 195, ll. 8 – 11. It took approximately one hour for the search warrant to

arrive at the scene. R. 36, l. 20 – 37, l. 7. After the warrant arrived, the police found a plastic bottle containing a mixture of liquid and methamphetamine. R. 337, ll. 7 – 14.

### **Discussion**

Since Brandi was in custody when the officers entered the hotel room, the initial warrantless search of the hotel room was illegal. Searches without a warrant are *per se* unreasonable under the Fourth Amendment unless some exception applies.<sup>1</sup> Katz v. United States, 389 U.S. 347, 357 (1967). The police were there to execute a valid arrest warrant. The argument advanced by the State for the officers' entry into the hotel room was "officer safety." R. 201, l. 21 – 203, l. 17. Judge Alford based his ruling on "officer safety." R. 210, l. 6 – 212, l. 21. Therefore, the only exceptions to the warrant requirement that could justify the entry into the hotel room are exigent circumstances or a search incident to arrest.

Exigent circumstances, including danger to the lives of police officers, can justify a warrantless entry. United States v. Coles, 437 F.3d 361, 366 (3<sup>rd</sup> Cir. 2006). "Exigent circumstances, however, do not meet Fourth Amendment standards if the government deliberately creates them." Id. Had "officer safety" been the primary concern, the police would not have entered the hotel room at all. Instead, the officers, having heard from Deputy Gladden that there were probably drugs in the room, manufactured the danger which led to their claimed safety concerns. Brandi was arrested, in handcuffs, and outside the room when the officers entered. The reason for their presence at the hotel was accomplished once Brandi was arrested. The officers had no lawful reason to enter the hotel room after arresting Brandi.

Instead, the officers forcefully entered the room at 8:30 am on a Sunday morning to find two other people in bed under the covers, which they found suspicious. The police ordered the men who had just been awakened to show their hands, and, even though the men complied with their commands, still jumped on the beds and handcuffed them. The police claimed that the men were hiding under the covers and could have weapons, but even if such claims had merit, any danger to the officers was precipitated by their needless, warrantless entry into the hotel room.

In Coles, the police manufactured exigent circumstances to justify warrantless entry into a hotel room. Id. The police offered no reason why they could not wait to obtain a search warrant. Id. at 371. The Third Circuit suppressed the evidence because the police's investigative tactics triggered the exigency. Id.; see also, Kentucky v. King, 131 S.Ct. 1849, 1858 (2011) (holding that police officers' pre-exigency conduct must be reasonable in order for exception to apply); Johnson v. United States, 333 U.S. 10 (1948) (holding that warrantless entry into a hotel room was unjustified because they could have obtained a warrant). It is unreasonable to believe that the officers were concerned about their safety by entering a hotel room where people were sleeping after the arrest of Brandi had been made. Therefore, the exigent circumstances exception does not apply.

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<sup>1</sup> Judge Cooper correctly found that Johnson and Catoe had an expectation of privacy in the hotel room. R. 212, l. 22 – 213, l. 7.

The search incident to arrest exception cannot rescue this warrantless search. See Arizona v. Gant, 556 U.S. 332, 338 (2009). In Gant, a search incident to arrest case dealing with an automobile, the United States Supreme Court clarified the scope of this exception. The Supreme Court held that when someone is arrested and poses no further threat to law enforcement, the police are not entitled to search a vehicle without a warrant unless there is reason to believe it contains evidence of the crime. Id. at 346-47. A similar rationale applies to this case. The malicious injury to property charge arose from Brandi intentionally crashing her car into another man's car. R. 352, ll. 7 – 14. Therefore, no evidence of the crime of arrest could be present in the hotel room. See State v. Brown, 389 S.C. 473, 698 S.E.2d 811 (Ct. App. 2010) (applying Gant to strike down a warrantless search).

This case resembles State v. Brown, 289 S.C. 581, 347 S.E.2d 882 (1986). In Brown, the police searched an arrestee's motel room after the police took the room's occupants away. The police claimed the search incident to arrest exception applied. The South Carolina Supreme court quickly rejected their claim, stating, "Here, [the police] testified that Brown, Brown's brother and Shawley were arrested outside the motel room. They had been taken away at the time the search was conducted. Accordingly, the exception allowing a search incident to arrest is not applicable." Id. at 587, 347 S.E.2d 885-86. The court also found that exigent circumstances did not excuse the warrantless search because police had ample time to obtain a search warrant. Id. at 587-88, 347 S.E.2d at 886.

Since neither the exigent circumstances nor search incident to arrest exceptions justified the police's presence in the hotel room, the trial judge erred in holding that the

plain view exception applied. “[T]he plain view exception requires: (1) the initial intrusion which afforded the authorities the plain view was lawful; (2) the discovery of the evidence was inadvertent; and (3) the incriminating nature of the evidence was immediately apparent to the seizing authorities.” State v. Wright, 391 S.C. 436, 443, 706 S.E.2d 324, 327 (2011). As shown above, the initial intrusion into the hotel room was unlawful.

Furthermore, even assuming the officers had lawfully seen into the hotel room during the initial arrest of Brandi, all they would have seen were computers. The officers admitted they had no information leading them to believe the computers were stolen. Nothing about the computers themselves was incriminating. It was only after the officers repeatedly entered and re-entered the room that they saw the other evidence listed in the warrant, such as the syringes, razor blades, and tin foil. It was undisputed that the officers continued to go in and out of the room before they obtained a search warrant, which Deputy Gladden excused because of “officer safety issues.” R. 369, l. 7 – 370, l. 23. Therefore, the incriminating nature of the evidence (the computers) could not have been immediately apparent.

The search was illegal and the trial judge erred in not suppressing it. Evidence obtained from an illegal search must be suppressed as fruit of the poisonous tree. Wong Sun v. United States, 371 U.S. 471 (1963). The police were not investigating Johnson prior to the incident at the hotel room. Therefore, their entire investigation must be suppressed as fruit of the poisonous tree. Without any such evidence, Johnson’s conviction must be reversed.

The trial judge erred in ruling as a matter of law that the all of the liquid which contained methamphetamine would count towards its weight, admitting such evidence, and ordering defense counsel not to argue to the jury whether all of the liquid was methamphetamine, because this violated the meaning and intent of the statute defining “methamphetamine” and the utilization of this overly broad interpretation deprived appellant of his Sixth Amendment right to a jury trial.

### **Relevant Facts**

At most, two boxes of Sudafed were used in the liquor bottle that contained the methamphetamine solution in this case. R. 484, ll. 14 – 23. The method used to make methamphetamine was the “Shake and Bake” method. R. 238, l. 3 – 240, l. 20. Under this method, much of the material is strained off and discarded. R. 239, l. 15 – 240, l. 20. The evidence presented at trial was that the liquid recovered from the hotel room weighed 60.9 grams. R. 744, ll. 8 – 11. The material, as found in the hotel room, was not in its finished state. R. 815, l. 8 – 816, l. 5. The largest box of Sudafed sold in pharmacies contains 3.6 grams. R. 257, ll. 2 – 4. One box of Sudafed, after the “cooking” process, yields between two and three grams of methamphetamine. R. 257, ll. 14 – 17. Therefore, the most finished, ready-for-use methamphetamine the bottle from the hotel room could have contained was six grams.

The trial judge struggled with how to deal with the difference between the weight of the mixture recovered from the hotel room and what the testimony indicated the finished product would weigh. R. 729, l. 25 – 738, l. 11. Judge Alford called it a “question of first impression in South Carolina” whether the entire mixture would count

towards the weight of methamphetamine. R. 738, ll. 4 – 6. Defense counsel argued that only the weight of the finished product should count toward the weight. R. 728, ll. 15 – 8; R. 928. Alternatively, he argued that the weight of the mixture should not come into evidence. R. 728, ll. 3 – 8. Judge Alford ultimately ruled that all of the liquid would count as methamphetamine and that this question was an issue of law. R. 738, l. 4 – 11. Judge Alford also went further and prohibited the defendant from making any argument to the jury that all of the mixture could not be considered methamphetamine. R. 738, ll. 15 – 22. Defense counsel objected on the ground that the statute was overly broad and unconstitutional. R. 738, ll. 12 – 14. His objection was overruled and considered preserved by Judge Alford. R. 738, ll. 23 – 25.

### **Discussion**

Judge Alford erred in his interpretation of South Carolina’s statutes criminalizing methamphetamine. More importantly, his overly broad interpretation of these statutes deprived Johnson of his Sixth Amendment right to a jury trial.

Section 44-53-375 of the South Carolina Code criminalizes the possession, manufacture, and trafficking of methamphetamine. S.C. Code Ann. § 44-53-375. Someone who possesses ten grams or more of methamphetamine can be convicted of the felony of trafficking. S.C. Code Ann. § 44-53-375(C). The severity of a trafficking offense depends on the weight of methamphetamine with the penalties beginning to increase at the threshold amounts of 28 grams and again at 100 grams. S.C. Code Ann. § 44-53-375(C)(2) and (3).

Section 44-53-110 defines “methamphetamine” as including “any salt, isomer, or salt of an isomer, or any mixture or compound containing amphetamine or

methamphetamine.” S.C. Code Ann. § 44-53-110. Section 44-53-392 states, “Notwithstanding any other provision of this article, the weight of any controlled substance referenced in this article is the weight of that substance in pure form or any compound or mixture thereof.” S.C. Code Ann. § 44-53-392.

Judge Alford determined that the Legislature meant a broad definition of “any mixture” of methamphetamine. Tr. 786, l. 25 – 795, l. 11. This interpretation was incorrectly based on State v. Kerr, 299 S.C. 108, 382 S.E.2d 895 (1989). In Kerr, the defendant argued that since the mixture of cocaine was only 74% pure, that he should only be charged based on 74% of the weight. Id. at 109, 382 S.E.2d at 896. The Supreme Court rejected this contention and affirmed the usage of 100% of the weight of the cocaine. Id.

To support its holding in Kerr, the Court cited a Nevada case that reasoned that diluted forms of a drug are more dangerous to society because it necessarily means the drug would increase the number of persons who would partake. Id. at 109-110, 382 S.E.2d at 896-97 (citing Sheriff of Humboldt County v. Long, 763 P.2d 56, 58-59 (Nev. 1988)). This rationale does not exist with respect to unfinished mixtures of methamphetamine. With cocaine, all of the drug—the pure cocaine and any agent used to cut the drug—is consumed. It was undisputed at trial that the mixture of methamphetamine seized from the hotel room was unusable in its current form. It was not a diluted form of the drug that would enable its sale to many more users. It was unfinished product. The State’s own witnesses acknowledged that much of it would be discarded.

Contrary to Judge Alford's divination of the Legislature's intent, our drug statutes specifically recognize that methamphetamine contains unusable by-products. See S.C. Code Ann. § 44-53-376. Section 44-53-376 states, "It is unlawful for a person to knowingly cause to be disposed any waste from the production of methamphetamine or knowingly assist, solicit, or conspire with another to dispose of methamphetamine waste." S.C. Code Ann. § 44-53-376(A). The enactment of this statute by the Legislature shows its recognition that methamphetamine has significant, inconsumable by-products. When construing this specific provision with the more general statutes criminalizing methamphetamine, it is clear that "any mixture" was not intended to include the waste from the production of methamphetamine. Specific statutes inform the intent of more general statutes. See Capco of Summerville, Inc. v. J.H. Gayle Constr. Co., 358 S.C. 137, 142, 628 S.E.2d 38, 41 (2006). Therefore, Judge Alford erred in concluding the Legislature intended the entire weight of the liquid containing the methamphetamine would count against a defendant.

Federal drug statutes recognize the problem of the weight of in-process methamphetamine. See 21 U.S.C. § 841(b)(1)(A)(viii). The federal statute provides that anyone possessing 50 grams of methamphetamine or "500 grams or more of a mixture or substance containing a detectable amount of methamphetamine" are equivalent offenses. See id. This distinction does not occur with respect to cocaine, heroin, or marijuana in its final form. See 21 U.S.C. § 841(b)(1)(A)(i), (ii), (iii), and (vii). However, the federal statute does not criminalize possession of coca leaves when the cocaine has been removed. See 21 U.S.C. § 841(b)(1)(A)(ii)(I). It also treats 1000 marijuana plants as the equivalent of 1000 kilograms of a mixture of marijuana, which recognizes that the entire

marijuana plant is not consumed. See 21 U.S.C. § 841(b)(1)(A)(vii). This Court should use the federal statutes as confirmation that “any mixture” of methamphetamine is to be treated differently than “any mixture” of other drugs that are wholly consumed.

Even with this distinction in the federal statute, many federal courts of appeals still use a market-based approach to determining the weight of methamphetamine. See United States v. Stewart, 361 F.3d 373, 377-79 (7<sup>th</sup> Cir. 2004); United States v. Jennings, 945 F.2d 129, 135 (6<sup>th</sup> Cir. 1991); but see United States v. Richards, 87 F.3d 1152, 1153 (10<sup>th</sup> Cir. 1996). The federal circuits adopting the market-based approach find support in Chapman v. United States, 500 U.S. 453, 460-61 (1991). In Chapman, the Supreme Court dealt with whether LSD blotter paper would be counted as part of the drug’s weight. The Court held that “Congress adopted a ‘market-oriented’ approach to punishing drug trafficking, under which the total quantity of what is distributed, rather than the amount of pure drug involved, is used to determine the length of the sentence.” Id. at 461.

The federal courts adopting the market approach understand the distinction and dangers of a pure drug being mixed with a dilutant in order to increase sales versus an incomplete, indigestible compound that will result in a much smaller finished product. Stewart, 361 F.3d at 378-79; Jennings 945 F.2d at 137. The Jennings court also noted that mixtures containing methamphetamine are not only not intended for sale, but are often poisonous. Jennings 945 F.2d at 136. The court in Stewart rejected the idea that the entire mixture containing methamphetamine should be included because it could lead to absurd results. Stewart, 361 F.3d at 378-79. The Seventh Circuit posited the analogy

of a defendant dumping his drugs into a toilet and then being charged with the weight of the water in the bowl. Id.

Tennessee and Oregon have endorsed the market-based approach for methamphetamine. See State v. Magness, 165 S.W.2d 300, 303-04 (Tenn. Ct. Crim. App. 2004); State v. Slovik, 71 P.2d 159, 161-63 (Ore. Ct. App. 2003). The Tennessee court adopted a market-based approach when interpreting a statute defining methamphetamine as “one hundred grams or more of any substances containing methamphetamine.” Magness, 165 S.W.2d at 303. The Oregon statute considered in Slovik stated “ten grams or more of a mixture or substance containing a detectable amount of methamphetamine.” Slovik, 71 P.2d at 161. Neither of these statutes are analytically distinguishable from South Carolina’s statute. This Court should follow the analysis used in the above-cited cases and determine that the trial court erred in finding that the entire weight of the substance seized from the hotel room would be counted against Johnson under the trafficking statute and allowed into evidence.

The trial court went a step further with its weight analysis and precluded Johnson from arguing to the jury that the entire weight of the liquid could not be counted against him. This error deprived Johnson of a trial by jury on an essential element of the offense. See Apprendi v. New Jersey, 530 U.S. 466, 476-78 (2000). The Sixth Amendment guarantees a defendant the right to a jury’s verdict based on the reasonable doubt standard. Id. Defense counsel should have been allowed to argue to the jury that of the 60.9 grams of liquid presented to them, only two or three grams of the substance would have been used or sold as methamphetamine.

Defense counsel's inability to make such an argument prejudiced Johnson. The solicitor was able to argue that the 28 gram threshold amount was met and said that "approximately 70 grams of methamphetamine" was taken out of the bottle from the hotel room. R. 837, ll. 13 – 16. The solicitor said, "It's a mixture and that's what the law in South Carolina says. Methamphetamine is any mixture thereof." R. 837, ll. 16 – 18. The solicitor also told the jury that "[O]nce that substance is methamphetamine in that bottle, [they're] trafficking in methamphetamine period—period. And that amount was over 28 grams." R. 838, ll. 9 – 11. The solicitor was free to argue this crucial fact to the jury while the trial judge's order emasculated any defense rebuttal.

The question of how to consider the amount of liquid in the bottle was foremost in the jury's mind as they sent the judge this question:

THE COURT: Madame Forelady, members of the jury panel, I got your note out, you want me to re-instruct you on what constitutes the definition of weight of methamphetamine. I have no idea what you're asking me there. Can you clarify what it is you want me to instruct you on?

MADAME FORELADY: You instructed us before about what the methamphetamine, how we judge 28 grams or not.<sup>2</sup> What constitutes the definition of methamphetamine by law, what that includes.

THE COURT: Are you asking me specifically about any evidence that came in or are you just asking me generally?

MADAME FORELADY: **We're asking you about the 60.9.**

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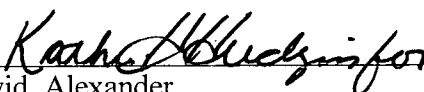
<sup>2</sup> While Johnson was originally indicted for trafficking in an amount in excess of 100 grams, at trial the solicitor agreed that the jury should only be charged on 28 to 100 grams, 10 to 28 grams, and the lesser included offense of manufacturing and distributing. R. 826, l. 8 – 829, l. 18.

R. 903, l. 23 – 904, l. 11 (emphasis added); R. 905. The court again read the statutory definitions for the jury. R. 904, l. 12 – 906, l. 15. The jury was without the benefit of any argument from the defense concerning whether the entire weight of the liquid qualified under the statute. The closest defense counsel could come to arguing this point was stating that the bottle was an unfinished product that could not be used, but he could not address its weight or purity. R. 868, ll. 14 – 18. This *de facto* directed verdict against Johnson deprived him of his right to a trial by jury and requires reversal of his conviction and the grant of a new trial.

CONCLUSION

This Court should reverse Johnson's conviction and sentence because the trial court should have suppressed all evidence obtained as a result of the illegal search of the hotel room. Alternatively, this court should reverse and grant Johnson a new trial because of the trial court's errors regarding the weight of the drugs.

Respectfully submitted,

  
David Alexander  
Appellate Defender

ATTORNEY FOR APPELLANT

This 24th day of June, 2013.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from York County  
Lee S. Alford, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

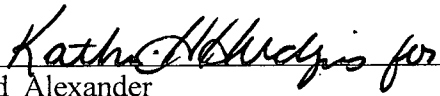
JASON ALAN JOHNSON,

APPELLANT

APPELLATE CASE NO. 2012-207549

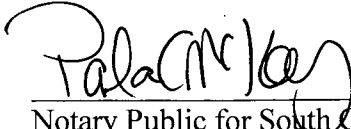
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon William M. Blich Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 24th day of June 2013

  
David Alexander  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 24<sup>th</sup> day of June, 2013

  
\_\_\_\_\_(L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 24, 2022.

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JUN 24 2013

**SC Court of Appeals**

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 24<sup>th</sup>, 2013

  
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