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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Florence County

Honorable William H. Seals, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CARLTON DEVONTE BROWN,

APPELLANT

APPELLATE CASE NO. 2025-000149

INITIAL BRIEF OF APPELLANT

JESSICA M. SAXON
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

South Carolina Cases

United States Cases

Other Authorities

Constitutional Provisions

STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in denying the motion to suppress the methamphetamine that was found during an unlawful search?

STATEMENT OF THE CASE

During the November 2021 term of the Florence County grand jury, Appellant was indicted for trafficking methamphetamine less than 100 grams, possession with intent to distribute marijuana, and two counts of possession of a handgun by one convicted of a crime of violence. Approximately six months before trial, in July 2024, Appellant was directly indicted for one count of pointing and presenting a firearm. R. (indictments). The state, represented by Jeremiah Freeman, called the case to trial on January 13, 2025, before the Honorable William H. Seals, Jr., and a jury. Appellant was represented by William "Josh" Edgeworth. Tr. 1. On January 15, 2025, the jury acquitted Appellant of the pointing and presenting charge and found him guilty as charged on the weapons and drug charges. Judge Seals sentenced Appellant to fifteen years on the trafficking charge and five years each on the other charges, all sentences to run concurrently. Tr. 449, ll. 4-8.

STANDARD OF REVIEW

The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. State v. Wright, 391 S.C. 436, 442, 706 S.E.2d 324, 326 (2011) (citations and internal quotation marks omitted). On appeal from a suppression hearing, appellate courts are bound by the circuit court's factual findings if any evidence supports the findings. State v. Brockman, 339 S.C. 57, 66, 528 S.E.2d 661, 666 (2000). "[W]hile the need for deference remains, particularly in determining issues of credibility, it is no longer necessary for us to defer to the trial court's overall ruling in every case." State v. Frasier, 437 S.C. 625, 632-34, 879 S.E.2d 762, 766 (2022). Hence, "appellate review of a motion to suppress based on the Fourth Amendment involves a two-step analysis. This dual inquiry means we review the trial court's factual findings for any evidentiary support, but the ultimate legal conclusion ... is a question of law subject to de novo review." Id.

ARGUMENT

The trial court erred in denying the motion to suppress the methamphetamine that was found during an unlawful search.

Relevant Facts

On June 29, 2021, Laquonda Green called 9-1-1 to request the police because an individual "had a gun and was trying to fight." She identified the person as Carlton Brown (Appellant), informed 9-1-1 that he was driving a silver Equinox, and stated that "the car was full of drugs." Tr. 101, ll. 1-5; State's Exhibit 2 – 911 call (on file with this Court). Officers did not immediately locate the vehicle and issued a BOLO (be on the lookout) for a silver Equinox with out of state tags. The BOLO included information that the suspect was likely armed and that narcotics were possibly in the car. Warrants were taken out on Appellant for domestic violence and pointing and presenting a firearm. Two officers were working the evening shift on June 29, 2021 – John Stewart[1] and Dedrick Graham. Stewart spotted the suspect vehicle while patrolling, confirmed Graham was close by to assist him, and initiated a felony stop on the vehicle.

Appellant was compliant and followed the commands of Stewart. When questioned if he was armed, Appellant stated there was a weapon in the vehicle. Once Appellant was secured, Dedrick located two firearms and a bag containing marijuana in the back floorboard in plain view. Dedrick left the scene to transport Appellant to jail approximately fifteen-to-twenty minutes after the initial stop. Approximately thirty-eight minutes after the initial stop, and close to twenty minutes after Appellant had been removed from the scene, Stewart is seen on his body worn camera taking a small black plastic bag from the eyeglass holder in the car and opening it to reveal multiple multi-colored pills. State's Ex. 1 – Stewart BWC (on file with this Court).

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1 Stewart lost his life in the line of duty a few weeks after Appellant's arrest. Tr. 251, ll. 20-25.

Subsequent testing revealed the pills were methamphetamine weighing 30.73 grams. Tr. 316, ll. 15-20.

Prior to trial, Counsel Edgeworth moved to suppress the methamphetamine. Tr. 79, ll. 7-13. The state called Graham who testified that Appellant was stopped because he had warrants and to identify whether he was armed. He conceded that Appellant immediately informed officers there was a weapon in the car. He further conceded that Appellant was quickly secured in handcuffs and moved away from the car ending any potential threat to officer safety. Graham was not on scene when Stewart located the methamphetamine and testified that they did not have prior knowledge that there were potential drugs in the car. Graham stated that standard protocol – to search a car incident to arrest and get it towed after inventory – was followed in the case. Tr. 69, ll. 11 – 78, l. 20.

Counsel Edgeworth argued that the purpose of the stop was to serve warrants and secure any firearms Appellant may have had. Once they had secured Appellant and secured the weapons, "there was no rational, reasonable, or probable cause basis to be on the lookout for any other drug that was not in plain view." Tr. 80, ll. 4-6. He compared the stop to a Rodriguez stop, arguing there was no reason to continue searching the car on the side of the road once Appellant and the weapons were secured as there was no longer a threat. He maintained the search was not an inventory search nor was it a search incident to arrest, but it was an illegal search under both the Fourth Amendment to the United States Constitution and Article I, Section 10 of the South Carolina Constitution requiring suppression of the methamphetamine. Tr. 80, l. 7-81, l. 8. The state argued the search was a search incident to arrest, an automobile exception search and an inventory search. The state further argued that the marijuana being in plain view expanded the scope of the probable cause to search the car. Tr. 81, l. 11 – 82, l. 20.

The trial judge initial suppressed the methamphetamine. Tr. 82, ll. 21-22. The parties recessed for lunch, and when they returned the state asked for clarification on the judge's decision to suppress the pills. The trial judge reversed course, determining that the pills were seized pursuant to an inventory search and therefore proper. Tr. 85, l. 21 – 86, l. 25.

At trial, Dedrick testified repeatedly that Stewart was not conducting an inventory of the vehicle but instead was conducting a search incident to arrest which allows officers "to search their immediate area for anything contraband or anything like that." Tr. 239, ll. 1-17; Tr. 241, ll. 9-25; Tr. 243, l. 23 – 245, l. 25. He clarified that an inventory search required filling out the tow form and documenting any non-contraband items in the car, which was not done in the case. Tr. 239, l. 20 – 240, l. 4; Tr. 244, ll. 3-12. He testified he was "clearing up" the confusion from the pre-trial hearing, wherein the state had claimed the search was an inventory search. He maintained it was a search incident to arrest, even though Appellant had been arrested and removed form the scene at the time of the search. He further admitted that the officers could have obtained a warrant. Tr. 245, ll. 1-4. The state introduced the drugs into evidence through the chemist, Mitchell Hansen. At the time the BEST kit containing the drugs was moved into evidence, Counsel Edgeworth did not object. Tr. 313, ll. 17-25.

After the state rested, Counsel Edgeworth renewed his motion to suppress the methamphetamine arguing that the testimony revealed it was not an inventory search and that because Appellant had been removed from the scene by the time of the search, that it was not a search incident to arrest. Tr. 340, l. 1-343, l. 22; Tr. 344, l. 25-346, l. 1. The court denied the renewed motion to suppress. Tr. 351, ll. 16-20.

Discussion

"The security and protection of persons and property provided by the Fourth Amendment are fundamental values." State v. Gamble, 405 S.C. 409, 420, 747 S.E.2d 784, 789 (2013) (*citing* Alderman v. United States, 394 U.S. 165, 175, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969)). "No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law." State v. Woodruff, 344 S.C. 537, 544, 544 S.E.2d 290, 294 (Ct. App. 2001) (*citing* Union Pacific Ry. Co. v. Botsford, 141 U.S. 250, 251, 11 S.Ct. 1000, 1001, 35 L.Ed. 734, 737 (1891)). The basic purpose of the Fourth Amendment, as recognized repeatedly by the United States Supreme Court, is "to safeguard the privacy and security of individuals against arbitrary invasions by government officials." Cady v. Dombrowski, 413 U.S. 433, 453 (1973) (Brennan, J. dissenting).

Through its exclusionary rule, the Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures. U.S. Const. Amend. IV. "The manner in which the seizure and search were conducted is, of course, as vital a part of the inquiry as whether they were warranted at all. The Fourth Amendment proceeds as much by limitations upon the scope of governmental action as by imposing preconditions upon its initiation." Terry v. Ohio, 392 U.S. 1, 28–29, 88 S.Ct. 1868, 1883–84, 20 L.Ed.2d 889 (1968). "The entire deterrent purpose of the rule excluding evidence seized in violation of the Fourth Amendment rests on the assumption that 'limitations upon the fruit to be gathered tend to limit the quest itself.'" Id. (*citing* United States v. Poller, 43 F.2d 911, 914, 74 A.L.R. 1382 (C.A.2d Cir. 1930)). "Thus, evidence may not be introduced if it was discovered by means of a seizure and search which were not reasonably related in scope to the justification for their initiation" Id. 392 U.S. at 29, 88 S. Ct. at 1884, 20 L.Ed.2d at

889 (*citing* Warden v. Hayden, 387 U.S. 294, 310, 87 S.Ct. 1642, 1652, 18 L.Ed.2d 782 (1967)). Similarly, the South Carolina Constitution provides protection against unlawful searches and seizures. S.C. Const. art. I, § 10. In fact, the South Carolina Constitution contains an express right to privacy provision that favors an interpretation *offering a higher level of privacy protection* than the Fourth Amendment. See State v. Key, 431 S.C. 336, 848, S.E.2d 315 (2020) (emphasis added).

When evaluating a search through the framework of the Fourth Amendment, "[t]he ultimate standard set forth...is reasonableness." Dombrowski at 439. "Whether a search and seizure is unreasonable within the meaning of the Fourth Amendment depends upon the facts and circumstances of each case." S. Dakota v. Opperman, 428 U.S. 364, 375 (1976). Evidence seized in violation of the Fourth Amendment will be excluded in both state and federal court. See Mapp v. Ohio, 367 U.S. 643 (1961); State v. Forrester, 343 S.C. 637, 643, 541 S.E.2d 837, 840 (2001).

"Generally, a warrantless search is per se unreasonable and thus violative of the Fourth Amendment's prohibition against unreasonable searches and seizures." State v. Bultron, 318 S.C. 323, 331, 457 S.E.2d 616, 621 (Ct. App. 1995). "However, a warrantless search will withstand constitutional scrutiny where the search falls within one of a few specifically established and well delineated exceptions to the Fourth Amendment exclusionary rule." Id. at 331-32, 457 S.E.2d at 621. In such cases, the *burden is upon the State to justify a warrantless search.* State v. Bailey, 276 S.C. 32, 35, 274 S.E.2d 913, 915 (1981) (emphasis added).

One of the exceptions to the warrant rule is an inventory search conducted according to standard police procedures. Robinson v. State, 407 S.C. 169, 185, 754 S.E.2d 862, 870 (2014)

(stating "if police officers are following their standard procedures, they may inventory impounded property without obtaining a warrant" (*citing* Colorado v. Bertine, 479 U.S. 367, 374 (1987))). However, "[a]n inventory search will not be sustained where the court believed that the officers were searching for incriminating evidence of other offenses." U.S. v. Feldman, 788 F.2d 544, 553 (9th Cir. 1986) *citing* Opperman, 428 U.S. at 376. In analyzing inventory searches the United States Supreme Court has explained,

> [A]n inventory search must not be a ruse for a general rummaging in order to discover incriminating evidence. The policy or practice governing inventory searches *should be designed to produce an inventory*. The individual police officer must not be allowed so much latitude that inventory searches are turned into a 'purposeful and general means of discovering evidence of a crime.'

Florida v. Wells, 495 U.S. 1, 4 (1990) (emphasis added). The California Court of Appeals for the Fourth District further elaborated on the principle outlined in Wells, *supra*, stating,

> Just as inventory searches are exceptions to the probable cause requirement, they are also exceptions to the usual rule that the police officer's [s]ubjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis...courts will explore police officers subjective motivations for impounding vehicles in inventory search cases, even when some objectively reasonable basis exists for the impounding.

People v. Torres, 188 Cal. App. 4th. 775, 787-788, Cal. Rptr. 3d 48 (4th Dist. 2010), as modified on denial of reh'g, (Oct. 21, 2010).

Another exception to the warrant requirement is a search incident to arrest. This "exception derives from interests in officer safety and evidence preservation that are typically implicated in arrest situations." Arizona v. Gant, 556 U.S. 332, 338 (2009). The United States Supreme Court has held that police may search incident to arrest only the space within an arrestee's "immediate control," meaning "the area from within which he might gain possession of a weapon or destructible evidence." Chimel v. California, 395 U.S. 752, 763 (1969). "That limitation, which continues to

define the boundaries of the exception, ensures that the scope of a search incident to arrest is commensurate with its purposes of protecting arresting officers and safeguarding any evidence of the offense of arrest that an arrestee might conceal or destroy." Gant, 556 U.S. at 339. "If there is no possibility that an arrestee could reach into the area that law enforcement officers seek to search, both justifications for the search-incident-to-arrest exception are absent and the rule does not apply." Id. While "the *Chimel* rationale authorizes police to search a vehicle incident to a recent occupant's arrest only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search," the Supreme Court has also concluded "that circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle." Gant, 566 U.S. at 343.

The testimony of Dedrick made clear that the search of Appellant's car was not performed pursuant to an inventory procedure. Not only did he deny that an inventory was performed, but the record contains no evidence of the inventory procedure or an actual inventory being produced. The subjective intentions of the officer were not to produce an inventory of the non-contraband items in the car but to search for further evidence of a crime. The search was not designed to be and did not produce an inventory, and it was not done according to standard procedures. It was error for the court to allow the methamphetamine into evidence under this exception.

Although Dedrick repeatedly testified that the search was incident to arrest, the record reveals that Appellant was long removed from the scene before the search began and had been gone close to twenty minutes when the methamphetamine was discovered. Appellant had no ability to reach into the area officers wanted to search because he had been removed from his vehicle and handcuffed almost immediately due to the felon nature of the stop. He was then fully removed from

the scene, eliminating any possibility that he could tamper with, conceal, or destroy potential evidence. The search in this case was not a search incident to arrest in the traditional sense.

Further, the record does not establish that the police had a reasonable belief that evidence of the crime of arrest – at that time, criminal domestic violence and pointing and presenting – would be found through continued search of the car. At the time Appellant was placed into handcuffs and moved away from the vehicle, there was no threat to officer safety nor any possibility of destruction of potential evidence.

The car and its contents, at that point in time, were in the sole custody of law enforcement. Dedrick testified that he had probable cause for a warrant but did not need to get one. A search of a citizens private belongings without a warrant is *per se* unreasonable. While there are exceptions to the warrant requirement, the exceptions do not swallow the rule. There was no justification for the warrantless search of Appellant's car under either the inventory search or search incident to arrest exceptions. This court should find the methamphetamine was the product of an illegal search and reverse Appellant's conviction for trafficking.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court suppress the methamphetamine as the product of an illegal search and reverse his conviction on that charge.

Jessica M. Saxon
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of January, 2026.