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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Petition for Writ of Certiorari to the Court of Common Pleas
Appeal from Berkeley County

Honorable R. Kirk Griffin, Circuit Court Judge

Appellate Case No. 2025-001539

JOSEPH RUSSELL UMPHLETT,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Petitioner's Question

Whether the PCR court erred in finding that Petitioner was not prejudiced by trial counsel's unconstitutionally deficient failure to preserve a motion to suppress for appellate review?

Respondent's Counterstatement of Question

Whether the post-conviction relief court properly determined Petitioner failed to establish prejudice when there is not a reasonable probability Petitioner would have been successful on appeal?

STATEMENT OF THE CASE

In October 2014, Petitioner Joseph Russell Umphlett was indicted by the Berkeley County Grand Jury for trafficking methamphetamine, possession of a weapon during the commission of a violent crime, and possession of a firearm by a convicted felon (2014-GS-08-01525;-01526;-01528). On September 28, 2015, Petitioner proceeded to a jury trial before the Honorable Kristi L. Harrington. Grover Seaton, Esquire, represented Petitioner. Assistant Solicitors Jessica Nickles and Wilton McNeely represented the State. The jury convicted Petitioner as indicted, and Judge Harrington sentenced him to life pursuant to the recidivist statute.

Petitioner filed a timely notice of appeal, which was perfected by Appellate Defender John Harrison Strom. On appeal, Petitioner argued the trial court erred in (1) denying his motion to suppress and (2) admitting his verbal statements and written confession to law enforcement. The South Carolina Court of Appeals affirmed Petitioner's conviction on May 24, 2017. State v. Umphlett, Op. No. 2017-UP-386 (filed Oct. 18, 2017). The remittitur was returned on November 3, 2017.

On October 16, 2018, Petitioner filed an application for post-conviction relief. On April 17, 2023, an evidentiary hearing was held before the Honorable R. Kirk Griffin. Michael D. Moore, Esquire, represented Petitioner. Assistant Attorney General Danielle Dixon represented Respondent. In an order filed July 24, 2025, Judge Griffin denied relief and dismissed the application.

On August 1, 2025, Petitioner filed a timely notice of intent to appeal. On September 23, 2025, Petitioner filed his Petition for Writ of Certiorari.

This Return to Petition for Writ of Certiorari follows.

STATEMENT OF FACTS

Officers were dispatched to the Economy Inn motel in order to conduct a welfare check regarding children staying at the hotel, after a call to dispatch from the children's grandmother. (App. 52, 82, 237). The grandmother called because she was "very worried, very concerned" about the grandchildren living in the conditions they were in at the motel. (App. 233, 235). The report also indicated possible drug activity going on in the hotel room where the children were suspected of staying. (App. 324).

Officer Williams, Corporal Henderson, and Officer Oswald responded to the location. (App. 52, 81-82). Officer Williams knocked on the door, and after a period of time, Petitioner responded through the window. (App. 330). Officer Williams asked the occupants to open the door, and they did so. (App. 52-53, 83, 331). Immediately upon opening the door, the officers smelled marijuana. (App. 53, 83). Officer Williams requested consent to search, which was denied, except that Petitioner agreed the officers could get the marijuana from the nightstand. (App. 53, 83). Thereafter, Petitioner was read his Miranda[1] rights prior to any statements being taken. (App. 54, 84, 89).

The officers conducted a quick search and protective sweep of the hotel room. They were looking for the children as well as securing the scene. (App. 335-336). After further discussion with Petitioner, the officers obtained a search warrant for the hotel room. (Trial Court Exhibit 1; App. 1039). The search yielded roughly 7 ounces or 193.71 grams of methamphetamine. (App. 766).

Sergeant Thompson arrived after the other officers and met with Officer Williams. He indicated he met with Officer Williams about three doors down from Petitioner and Petitioner's

[1] Miranda v. Arizona, 384 U.S. 436 (1966).

girlfriend's hotel room. Even at that location, he could smell the marijuana from the hotel room. (App. 106). Sergeant Thompson then met with Petitioner. Petitioner admitted he had been read his Miranda warnings. (App. 108-109, 112). After speaking with Petitioner, Sergeant Thompson had Petitioner give a written statement. (App. 115-117). In his statement, Petitioner admitted there were 7 ounces of methamphetamine, several grams of marijuana, a drug called Molly, a couple of ecstasy pills, and a couple of firearms present in the hotel room. (App. 115-117).[2] His statement is consistent with the findings from the analysis of the items seized during the execution of the search warrant. He further admits in his statement that all of the evidence found was his. (App. 126). Petitioner's girlfriend acknowledged she only knew about the marijuana and one handgun, and not the remaining drugs or other items. (App. 549).

[2] Petitioner's Statement was admitted at trial as State's Exhibit 60. This is not part of the Appendix.

STANDARD OF REVIEW

The standard of review in PCR cases depends on the specific issue before the court. Smalls v. State, 422 S.C. 174, 181, 810 S.E.2d 836, 839 (2018). The burden is on the petitioner to prove the allegations in the PCR application. Bannister v. State, 333 S.C. 298, 302, 509 S.E.2d 807, 809 (1998). Appellate courts will defer to a PCR court's findings of fact and will uphold them if evidence in the record supports the findings of fact. Id. Appellate courts review questions of law de novo with no deference to the conclusions of the PCR court. Id. Appellate courts will reverse the decision of the PCR court when such a decision is controlled by an error of law. Goins v. State, 397 S.C. 568, 573, 726 S.E.2d 1, 3 (2012).

ARGUMENT

The post-conviction relief court properly determined Petitioner failed to establish prejudice because there is not a reasonable probability Petitioner would have been successful on appeal.

On appeal, Petitioner asserts the post-conviction relief court erred in not finding Counsel's representation constitutionally ineffective for failing to preserve a suppression issue for appellate review. However, as the post-conviction relief court properly found, Applicant failed to prove prejudice. The PCR court properly found there was evidence in the record to support the trial court's ruling that probable cause existed for the search and subsequent seizure of the evidence, and therefore, it is not reasonably probable this issue would have been reversed on appeal had it been preserved.

A trial court's Fourth Amendment suppression ruling must be affirmed if supported by any evidence, and an appellate court may reverse only when there is clear error. State v. Taylor, 401 S.C. 104, 108, 736 S.E.2d 663, 665 (2013) (citing State v. Groome, 378 S.C. 615, 618, 664 S.E.2d 460, 461 (2008); see also, State v. Abdullah, 357 S.C. 344, 349, 592, 357 S.C. 344, 349, 592 S.E.2d 344, 347 (Ct. App. 2004) ("On appeal from a suppression hearing, this court is bound by the circuit court's factual findings if any evidence supports the findings."). The appellate court will not reverse merely because it would have reached a different conclusion than the trial judge. State v. Rivera, 384 S.C. 356, 361, 682 S.E.2d 307, 310 (Ct. App. 2009).

It is the "basic rule that 'searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment— subject only to a few specifically established and well-delineated exceptions.'" Arizona v. Gant, 556 U.S. 332, 338 (2009) (quoting Katz v. United States, 389 U.S. 347, 357 (1967)). However, because the ultimate touchstone of the Fourth Amendment is "reasonableness," the warrant requirement is subject to certain exceptions. State v. Herring, 387 S.C. 201, 210, 692 S.E.2d 490, 494 (2009).

South Carolina courts have recognized several exceptions to the warrant requirement, including: (1) search incident to a lawful arrest; (2) "hot pursuit"; (3) stop and frisk; (4) the automobile exception; (5) the "plain view" doctrine; and (6) consent. State v. Bailey, 276 S.C. 32, 36, 274 S.E.2d 913, 915 (1981). Additionally, exigent circumstances can justify a warrantless search of a home that would otherwise be unreasonable. Herring, 387 S.C. at 209, 692 S.E.2d at 494.

First, officers may attempt to contact an individual in a hotel room or any residence to conduct a welfare check. This Court recently upheld the validity of law enforcement's conduct of a welfare check. See State v. Counts, 413 S.C. 153, 174 n.7, 776 S.E.2d 59, 71 n.7 (2015) ("In the instance of a 'welfare check,' the implicit license to approach a home as referenced in Florida v. Jardines, [569] U.S. [1], 133 S.Ct. 1409, 185 L.Ed.2d 495 (2013) is applicable.").

In the present case, the officers testified they went to the hotel room to conduct a child-welfare check. (App. 52, 82, 237). The officers, therefore, had an implicit license to approach the hotel room.[3] Once Petitioner opened the door, officers immediately smelled marijuana. (App. 53, 83, 106). Therefore, the officers had the requisite probable cause to obtain the search warrant. The smell of marijuana provided the requisite probable cause to obtain the search warrant in this case. See State v. Lane, 271 S.C. 68, 72, 245 S.E. 2d 114, 1 16 (1978) ("From the record it is evident that the odor emanating from the packages alone was a sufficient basis to establish probable cause as to their contents when it is considered that an officer of the law, familiar with the odor of marijuana, believed the odor being emitted was that of marijuana.").

Moreover, once the officers observed the smell of marijuana coming from the hotel room, the officers were justified under the circumstances in entering the hotel room, locating and

[3] Further, Petitioner omits the key fact that the officers were able to see children's clothing and toys. (App. 334).

detaining the occupants, and securing the premises to prevent the destruction of evidence and to ensure there were no hidden threats to the officers' or the public's safety. See United States v. Cephas, 254 F.3d 488, 496 (4th Cir. 2001) (ruling an officer's warrantless entry into an apartment was justified by exigent circumstances, namely the prevention of the destruction of evidence, after he smelled the odor of marijuana coming from the apartment); United States v. Grissett, 925 F.2d 776, 778 (4th Cir. 1991) (finding exigent circumstances justified the warrantless entry of a motel room after officers smelled the odor of marijuana through the open motel room door).

It is apparent that the actions of law enforcement did not constitute an unreasonable search and seizure, as both the trial court and the PCR court found. As the PCR court properly found, there was evidence in the record to support the trial court's ruling that probable cause existed for the search and subsequent seizure of the evidence, and therefore, it is not reasonably probable this issue would have been reversed on appeal had it been preserved.

Therefore, the post-conviction relief court properly found that Petitioner failed to meet his burden of proving prejudice, and the Court should deny certiorari to this issue.

[*Conclusion and signature block on following page*]

CONCLUSION

Based on the foregoing, the PCR court correctly determined that Petitioner failed to show that trial counsel provided constitutionally ineffective assistance. Therefore, this Court should deny Petitioner's Petition for Writ of Certiorari.

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This 30th day of January, 2026