

AUG 04 2026

SC Court of Appeals

The STATE, Respondent,

v,

Robert Earl DILLARD, Appellant.

C/A NO. 2026-000872

REPLY TO THE STATE

MOTION ON THE JUDGMENT

ORDER OF APPELLANT

INITIAL BRIEF RESPONSE

SYNOPSIS

Prosecution for murder. The General Sessions Court, Pickens County, Frank P. McGown, Jr., entered a judgment of conviction and the defendant appealed. The Supreme Court, McGown, held that Where no testimony on validity of Warrantless arrest was developed at trial it was impossible to ascertain from record Whether or not Probable cause for arrest existed which would justify search as an incident thereto, and case would be remanded for hearing as to whether Police had Probable cause for arrest at time it was made.

OPINION

"The Constitutional validity of the search in this case, then, must depend upon the constitutional validity of the petitioner's arrest. Whether that arrest was constitutionally valid depends in turn upon whether, at the moment the arrest was made, the officers had probable cause to make it - whether at that moment the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to a warrant a Prudent man in believing that the petitioner had committed *** an offense.' 379 U.S. at 91, 85 S.Ct. at 225.

The situation is analogous to that in STATE V. Cannon, 248 S.C. 506, 151 S.E.2d 752, in which a principal ground of appeal was the admission in evidence of a confession without a determination of its voluntariness by a tribunal other than the trial jury, as required by the decision of the United States Supreme Court in Jackson v. Denno, 378 U.S. 368, 84 S.Ct. 1774, 12 L.Ed.2d 908. Finding the other grounds of appeal to be without merit and conforming to our view of the requirements of Jackson v. Denno, supra, without granting a new trial, we remanded the case to the trial court for an independent determination of the voluntariness of the confession. We pointed out that if, in

fact, the confession was voluntary, the appellant suffered no actual Prejudice because this determination was not made at the trial.

As in Cannon, no injustice has been done to appellant here if, in fact, the Police had probable cause for arresting him. Determination of Probable cause issue was, and is, the function of the Court and can be made now without Prejudice to appellant's right, which will depend upon the event of that determination.

[4] Counsel for appellant also contend that, even assuming the admissibility of the challenged exhibits, the evidence was insufficient to sustain a conviction. *6 We think that the contrary Plainly appears and find no merit in the exception raising this question.

In the light of the forgoing, this case is remanded to the court of General sessions for Pickens County for a hearing and determination by the Court of Whether at the time of appellant's arrest the arresting officers had Probable cause to believe him guilty of the crime in question. Both the STATE and the defendant Shall have the right to introduce evidence on this issue. If it is determined that Probable cause did exist, it will follow that the questioned exhibits were Properly received in evidence, and an order dismissing the appeal shall be entered

by this Court. If it be determined that the officers did not have Probable cause for appellant's arrest, an order reversing appellant's conviction and granting him a new trial shall be entered.

Remanded.

In State v, Hamilton 1159 S.E.2d 607, Supreme Court of South Carolina February 14, 1968 251 S.C.

SYNOPSIS

Prosecution for murder. The General Sessions Court, Spartanburg County, Bruce Littlejohn, J., entered a judgment of conviction and the defendant appealed. The Supreme Court Brailsford, J., held that where no testimony on validity of warrantless arrest was developed at trial it was impossible to ascertain from record whether or not Probable cause for arrest existed which would Justify search as an incident thereto, and case would be remanded for hearing as to Whether Police had

Probable cause for arrest at time it was made.

Remanded

Opinion

*3BRAILSFORD, Justice.

This is an appeal by Leonard C. Hamilton from his conviction of murder of a Spartanburg storekeeper and his sentence to death by electrocution. Appellant was arrested without a warrant about five hours after discovery of the homicide. A billfold, a social security card and certain pictures belonging to the victim were found in his possession. These exhibits were admitted in evidence at the trial. The Principal of appeal is that they should have been excluded as the fruits of an illegal search and seizure in violation of the appellant's rights under the State and Federal constitutions.

*5[3] It is the function of the court to determine from the evidence whether a warrantless arrest was supported by Probable cause. *Beck v. State of Ohio*, supra. Here the evidence failed to disclose the facts and circumstances which were known to the officers when the arrest was made. Indeed, it appears that the prosecutor acted upon the erroneous view that testimony as to the information furnished the officers by others was unnecessary and would violate the hearsay rule. See 6 Wigmore, Evidence Sec. 1789 (3d ed. 1940). Since testimony on the point was not developed at the trial, it is impossible to ascertain from the record whether or not Probable cause for the arrest existed.

Instance, Here. The constitutional validity of the search in this case, then, must depend upon the constitutional validity of the petitioner's arrest. Whether that arrest was constitutionally valid depends in turn upon whether, at the moment the arrest was made, the officers had Probable cause to make it ---- Whether at that moment the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a Prudent man in believing that the petitioner had committed*** an offense. '379 U.S. at 91, 85 S.Ct. at 225.

Ground one; After discovered evidence of the state's knowing use of Perjured testimony to obtain a conviction.

Supporting Facts; There was no Physical evidence connecting petitioner to the Murder charges, and the state's evidence against him was based upon weak circumstantial evidence and credibility of its chief witness, James F. Simpson, who testified that petitioner confessed the murders to him in a club in the city of Greenville, S.C. in February 1993. However, six (6) years after the conviction, petitioner discovered through the FOIA request that Simpson was incarcerated in the Greenville Detention Center in February 1993 and could not have heard Any confession by Petitioner,

The SC Supreme Court has recognized Prosecutorial misconduct as a ground for PCR action in the absence even of a claim of ineffective assistance of counsel. *Gibson v. State*, 514 S.E.2d 320, 323-27 (SC 1999) (setting aside applicant's guilty Plea, and granting a New Trial because of Prosecutor's Brady violation. [fn.1] Solicitor Micalis Barcroft withheld those Record's from Petitioner's Attorney Richard Warner before trial and after, with regard to his claim, the applicant submits that Pursuant to his discover and Brady motion the solicitor disclosed the

[1] *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963)

detention records of its chief witness, James F. Simpson. However the solicitor failed to disclose any records of Simpson's detention in the Greenville Detention Center (GDC) for the months of November 25, 1992 through April 30, 1993. which covered the time Period Simpson testified that applicant admitted to him (Simpson) that he (applicant) had committed the murders while they were at the Haynie Street men club' in downtown Greenville. As the State's evidence against applicants was entirely circumstantial, Simpson's testimony regarding applicants murder confession to Simpson in 'February 1993' at the Haynie Street men's club was the only evidence the state had that directly connects applicant to the murder. and everything's else

was added after the false arrest by Det Randall Chapman of fabricate to make up for the sake of deception, if this was true the State would not need the false statement by their Chief witness's James F, Simpson as evidence to arrest the applicant of this crime and introduced simpson's perjured testimony.

Solicitor: Mr. Warner (applicant's c
Simpson was the one who killed them. I don't know, he might argue that, But I just simply ask you to remember 'that Simpson was in Jail at the time (of the murders)'. Tr.P. 632.

Solicitor: What did he (Simpson) tell us? He told us some things in the statement that nobody else knew, that the general Public did not know, that had not been released to the Public, to the media.

of Particular note, the murders took Place on December 17, 1992. The GDC records showed that Simpson was detained in the GDC from 11-25-92 until 4-30-93. Consequently, the Solicitor's Closing argument shows that he knew from his own records that Simpson had been detained in the GDC from 11-25-92 until 4-30-93, which also included the time of the murders as the Solicitor argued. Therefore, as Simpson could not have been at the 'Haynie Street men's club' in downtown Greenville to witness any confession by applicant, or get any details of the murder scene from applicant, it logically follows that he was Provided the details of the murder scene from the Solicitor files.

To obtain relief on the basis of subornation and perjury, an applicant must demonstrate (1) that the witness made a false statement, (2) that the false statement was material to case, (3) that the false statement was knowingly and intentionally employed by the State. see *Beasley v, Holland*, 649 F.Supp.561 (S.D.W. Va. 1985). Furthermore, a conviction must be set aside if there is a reasonable Probability that false testimony (or evidence) could have effected the outcome of the trial. see e.g., *United States v, Bagley*, 105 S.Ct 3375, 473 U.S.667 (1985); *Giglio v, United States*, 405 U.S. 150, 92 S.Ct, 763 (1972); *Miller v, Pate*, 87 S.Ct, 785 (1967); *Brady, Supra*.

In the instant case, Respondent misrepresented the Existence of the marital assets when ordered by the Court to Produce an accounting, This was intrinsic Fraud the Failure to disclose an adversary or Court matters which would defeat one's own claim is intrinsic Fraud') (quoting Hilton Head Ctr., 294 S.C. at 11, 362 S.E.2d at 177) PERJURY BY AN ATTORNEY FRAUD Pickens Solicitor Micials Barcroft, see RAY V, RAY 647 S.E.2d 237 S.C. Supreme Court. EVANS V, GUNTER, 294 S.C. 525, 529, 366 S.E.2d 44, 46 (1988). CHEWNING, 354 S.C. at 81, 579 S.E.2d at 610

(Anything after a false arrest the Evidence is no good it non-valid Furits Poisons Tree by Pickens Police department Det, Randall Chapman with Chief witness James F, Simpson).

see Supreme Court of the United States John van de kamp et Al. Petitioner v, Thomas Lee Goldstein NO.07-854 Argued Nov. 5, 2008. Decided Jan. 26, 2009. 129 S.Ct.855

In stant case Dillard was in SCDC Perry Correctional Inst, Prison after he filed a successful federal habeas petition alleging that his murder conviction depended, in Critical Part, on the false testimony of a Jailhouse informant who had received reduced sentences for providing Prosecutors with favorable testimony in others⁶ cases; James F, Simpson. that Prosecutors knew, but failed to give his attorney, this Potential imPeachment information; and that, among other things, that failure had led to his erroneous conviction.

State v, PhilPot 317 S.C. 458 454 S.E.2d 905 Supreme court of S.C. Newly Discovered Evidence WE Conclude the Arrest warrant should not have been issued. The Record indicates the Magistrate had only the affidavit of office Det, Randall Chapman and the written Statement of the Confidential informant before him, WE have reviewed both the affidavit and written statement and find absolutely no showing of the confidential Informant's reliability ALSO officer det, Randall Chapman testified at the pre-trial

Suppression hearing that the Magistrate had no information regarding the reliability of the informant thus making a remand unnecessary for a hearing under State v. Johnson. We therefore find no substantial basis for the magistrate to conclude probable cause existed. Accordingly, the evidence obtained as result of the jailhouse stitch in the Greenville GDC was inadmissible. Ground Two; After discovered evidence of trial judge's refusal to define 'reasonable doubt' upon jury's request, which subjected petitioner to a due process fundamental miscarriage of justice.

Supporting Facts; After the jury had found petitioner [guilty] of murder charges, the petitioner discovered that the jury had sent a 'note' to the judge requesting a definition of 'reasonable doubt.' The judge never published this note in open court nor informed the petitioner of the jury's request. However, the judge did enter into the trial record that the jury did request a definition during their deliberation, but that it was too late to honor their request once they found the petitioner guilty.'

In State v. Murdaugh May 13, 2026-S.E2d-2026 WL 1322305

*1 For six weeks in early 2023, the eyes of the nation focused on Colleton County, where the state prosecuted notorious former attorney Richard Alexander Murdaugh for the murder of his wife Maggie and son, Paul. Both the state and Murdaugh's defense skillfully presented their cases to the jury as the trial court deftly presided over this complicated and high-profile matter. However, their efforts were in vain because Colleton County Clerk of Court Rebecca Hill placed her fingers on the scales of justice, thereby denying Murdaugh his right to a fair trial by an impartial jury. Our justice system provides--indeed demands that every person is entitled to a fair trial, which includes an impartial jury untainted by external forces bent on influencing the jury toward a biased verdict. Although we are aware of the time, money, and effort expended for this lengthy trial, we have no choice but to reverse the denial of Murdaugh's motion for new trial due to Hill's improper external influences on the jury and remand for a new trial. Because we order a new trial on this basis, it is not necessary that we review every evidentiary issue Murdaugh raises on appeal from his conviction. However, we address the admissibility of Murdaugh's financial crimes to offer guidance on this thorny issue to the trial court on remand.

II. LAW AND ANALYSIS

A. Remmer Presumption of Prejudice

Murdaugh argues he was denied his Constitutional right to a fair trial by an impartial Jury free from outside influences. He asserts that following *Remmer v. United States*, 347 U.S. 227, 74 S.Ct. 450, 98 L.Ed. 654 (1954) (*Remmer I*), Prejudice should be Presumed from Hill's comments to the Jury and that the Presumption is irrebuttable. In the Alternative, He contends the State Failed to rebut the Presumption of Prejudice.

The State argues the jury convicted Murdaugh 'because he was obviously guilty, and not because three Jurors heard Hill's 'foolish and Fleeting comments about his upcoming testimony, 'It Contends that the Pre-trial court correctly declined to Presume Prejudice was rebuttable.

WE agree with Murdaugh, Prejudice from Hill's comments, and while this Presumption is rebuttable, the State Failed to overcome this Presumption. (see also The Petitioner respectfully submits that his conviction and sentenced must be revisited in light on newly clarified constitutional law established in *Rowell v. State* (2024). which directly governs the facts and circumstances of his case.

Here In the instant Here Dillard argues Judge Frank P. McGown However, the judge did enter into the trial record that 'the jury did request a definition during their deliberation, But that it was too late to honor their request once they found the Petitioner guilty.'

Judge McGown admitted the jury did request a definition during their deliberation, so How would the judge know if the jury found the petitioner guilty. *1 for November 28, 1994. mistrial and February 28, 1995. though March 2, 1995. trial. the eyes of the nation focused on Pickens County, where the State Prosecuted Robert Earl Dillard for the murder of his wife Karen and friend Marcus, Both the State and Dillard's defense skillfully Presented their cases to the jury as the trial Court deftly presided over this Complicated and High-Profile matter,

However, their efforts were in vain because Pickens County 13th Circuit Court Judge Frank P. McGown Placed his Fingers on the Scales of justice, thereby denying Dillard his right to a fair trial by an impartial jury. our Jurstice system provides-indeed demands that every person is entitled to a fair trial, which includes an impartial Jury untainted by external Forces bent on influencing the Jury toward a biased verdict. Although we are aware of the time, money, and effort expended for this lengthy trial, we have no choice but to reverse the denial of Dillard's motion for new trial due to Judge McGown's improper external influences on the Jury and remand for a new trial, Because we order a new trial on this basis, it is not Necessary that we review every evidentiary issue Dillard raises on appeal from his conviction.

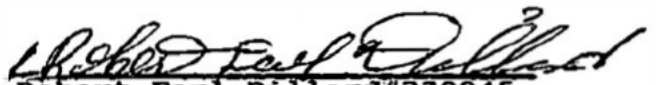
In Rowell would be entitled to a New Trial on the issue of damages only. relying upon Industrial welding Supplies v, Atlas vending CO 276 S.C.196,277 S.E.2d 885.

CONCLUSION

WHEREFOREGOING, I ask the Honorable Court to grant Robert Earl Dillard, a Evidentiary hearing on the fraud upon the Court violate of probable cause false arrest by state, conviction of appellant for new trial. vacate his sentence.

Because the Jury did request a definition on reasonable doubt during their deliberation of being confuse of the law.

date 7-28- 2026.


Robert Earl Dillard#220045

10,

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JUL 28 2026

PCI MAILROOM



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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February 11, 2026

The Honorable Harold P. Welborn, Jr.
PO Box 215
Pickens SC 29671-0215

REMITTITUR

Re: Robert E. Dillard v. State
Lower Court Case No. 2022CP3900680
Appellate Case No. 2022-000972

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

Jasmine D. Smith, Deputy
CLERK

Enclosure

cc: Robert Earl Dillard, 00220045
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire



The South Carolina Court of Appeals

Robert Earl Dillard, Appellant,

v.

The State, Respondent.

Appellate Case No. 2022-000972

The Honorable Perry H. Gravely
Pickens County
Trial Court Case No. 2022CP3900680

ORDER

The motion to serve and file a second amended record on appeal is denied. Appellant has failed to serve and file an amended record on appeal, as required by the Court's order dated April 2, 2025. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT
BY Catherine J. Hannon, deputy
CLERK

Columbia, South Carolina

cc:

Robert Earl Dillard, 00220045
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire

FILED
Jul 15 2025

IN THE COURT OF APPEALS

COUNTY OF PICKENS

Robert Earl Dillard,
Appellant,

v,

The State,
Respondent,

C/A NO. 2026-000872

PROOF OF SERVICE

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SC Court of Appeals

I Robert Earl Dillard, Certify that I served this proof of service to the following Reply TO:

Melody Jane Brown, Esquire

Alan Wilson Esq.

Attorney General office

1000 Assembly street, suite 501
Columbia, S.C. 29201

South Carolina Court of Appeals

Clerk of Court

1220 SENATE STREET
COLUMBIA, S.C. 29201

date 7-28- 2026.


Robert Earl Dillard #220045

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THE STATE OF SOUTH CAROLINA
IN COURT OF APPEALS

C/A No. 2026-000872

SOUTH CAROLINA COURT OF Appeals
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clerk of court
1220 senate street suite, 501

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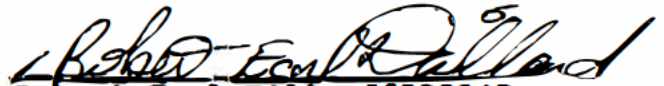
SC Court of Appeals

Dear Clerk,

I am sending you my Reply to the State motion on the Judgment
order to be file in your office and I thank you very much in
matter with my proof of service.

GOD BLESS YOU!

date 7-28- 2026.


Robert Earl Billard#220045

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