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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LAURENS COUNTY
General Sessions Court
Eugene C. Griffith, Jr., Circuit Court Judge

Case Nos.
2024GS3000603
2024GS3000604
2024GS3000605
2025GS3000351
2025GS3000352
Appellate Case No. 2025-001933

THE STATE,

Appellant,

v.

LEON LEE HARRIS, JR.,

Respondent.

INITIAL REPLY BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

1. Did the circuit court properly suppress the evidence seized from Harris's residence where the search-warrant affidavit—and the investigator's supplemental oral testimony—established, at most, that Harris was a drug dealer and identified his home, but contained no facts connecting any drug activity to the residence, such that the magistrate lacked a substantial basis to conclude there was a fair probability that contraband would be found there?

2. Is the good-faith exception to the exclusionary rule unavailable where the affidavit was so lacking in indicia of probable cause as to the required residential nexus—containing no controlled buy, no surveillance of the home, no observed sale at the home, and no informant statement tying drugs to the home—that official reliance on the warrant was objectively unreasonable?

3. As an additional sustaining ground, did the officers exceed the scope of the warrant by manipulating the residence's plumbing system and flushing its toilets in order to force suspected contraband into the septic tank?

STATEMENT OF THE CASE

This is the State's appeal from a pretrial order suppressing evidence. Respondent Leon Lee Harris, Jr., was indicted in Laurens County on several drug and related charges following a November 7, 2023 warrant-based search of his residence. Before trial, Harris moved to suppress the evidence recovered in that search, contending the search-warrant affidavit failed to establish probable cause—and, in particular, failed to establish any nexus between the suspected drug activity and the home—and that the good-faith exception could not apply.

The Honorable Eugene C. Griffith, Jr. conducted a two-day *in limine* hearing on September 2-3, 2025. After receiving the search warrant into evidence and hearing the testimony of the affiant, Investigator Charles Nations, the circuit court granted the motion and suppressed all evidence recovered in the search, finding the affidavit failed to bridge the "gap" between the reported drug activity and Harris's residence. (R. pp. 56-64). The State moved to reconsider, and the court heard argument on November 16, 2025. The court reaffirmed its ruling—describing it as resting on the "absence of that gap from the gas station to his house"—and denied reconsideration by Form 4 order. (R. pp. 83-89). The State timely appealed.

STATEMENT OF THE FACTS

The investigation began not as a drug case but as a report of an assault. On the night of November 5, 2023, Richard Anthony Mixon reported that a man he knew only as "Bug" had confronted and threatened him at a gas station over a drug debt. Mixon told deputies that "Bug" was a drug dealer, and he admitted that he himself had acted as a "middleman" in transactions between "Bug" and others—including a person Mixon had vouched for who had failed to pay, which Mixon said was the reason "Bug" was holding him responsible for the debt. Mixon then directed deputies to a residence he identified as "Bug's." (R. pp. 4-5; pp. 19).

Over the next two days, narcotics investigators identified "Bug" as Harris, matched the residence at 103 Cherrywood Lane, Gray Court, to him through an April 2021 report reflecting that he had resided there, matched vehicles registered to him, and pulled his criminal history, which reflected prior drug and assault convictions dating to the 1990s. (R. p. 5; pp. 37). The parcel itself was registered to a different person, Michael Adolphus Thomas. (R. p. 5). On November 7, 2023, Investigator Nations presented the affidavit to the Magistrate Judge Bron and obtained a warrant to search the residence—and "all persons, outbuildings, vehicles and any and all locked storage containers associated with the property"—for, among many other things, illegal narcotics, paraphernalia, records, currency, computers, firearms, and the clothing described in the gas-station incident. (R. pp. 2-3; pp. 37-38).

Critically, nothing in the four corners of the affidavit tied drug activity to the residence. The affidavit recounted Mixon's account of the gas-station confrontation, his general statements that "Bug" was a dealer, the identification of Harris and his vehicles, and Harris's criminal history. (R. pp. 4-5) Its only suggestion of a prior connection between the home and drugs was a single conclusory sentence: that investigators "were familiar with the residence . . . and knew this residence was the location of an individual named 'Bug' based upon previous investigations." (R. p. 5). The affidavit gave no date, no detail, and no description of any drug activity observed at the home. It described no controlled buy, no surveillance of the residence, no trash pull, no observed sale at or traffic to the residence, and no statement from Mixon or anyone else that drugs were kept, stored, or sold at the home. (R. pp. 1-7; pp. 56-57).

At the hearing, and over defense objection, the State elicited that Investigator Nations had *orally* supplemented the affidavit before the magistrate with a reference to an earlier investigation of the address, during which officers purportedly observed a "hand-to-hand" transaction "in front

of the roadway," let the other participant drive away, stopped that person, and recovered narcotics. (R. p. 34). Investigator Nations supplied no date or timeframe for that earlier episode, describing it only as "prior" and "ongoing." (R. p. 34). Nor did Investigator Nations supply any information about what illegal narcotics were obtained from that traffic stop, who was involved, or where the alleged hand-to-hand transaction took place other than describing it as "in front of the roadway." (R. p. 34). Defense counsel objected that this off-affidavit information was being raised for the first time and was not part of the sworn basis for the warrant. (R. pp. 33-34).

When officers executed the warrant, a person inside the residence met them at a side door and retreated, and officers treated the situation as a barricade for approximately five minutes before the occupant emerged. (R. p. 40). Officers unscrewed the above-ground cap of the septic tank, located eighteen to twenty feet from the home, looked inside, and—as described in the record—flushed the residence's toilets until material passed into the tank, where the charged narcotics were recovered. (R. pp. 27-28; pp. 39-40).

The circuit court granted suppression. It found the affidavit established, at most, that Harris was "a drug dealer" in general terms, but that there were "no specifics from anybody on any sales occurring in and around the house, near the residence, from the residence…", "…no surveillance conducted on traffic…," and no evidence "that they had any known sales to anyone." (R. pp. 56-57). The court described the warrant's scope as "hugely broad," and the drug information as "vague" and "insufficient," resting on "more of a hunch or a gut feeling." (R. p. 58; pp. 60-61). The court concluded there was a gap between the gas-station assault and the search of the home, and it suppressed the warrant "and all the fruit" as tainted. (R. p. 63). The court candidly acknowledged the question was "a close, close call." (R. p. 63).

At reconsideration, the court reaffirmed that its ruling rested on "the absence of that gap from the gas station to his house" and on the "lack of any further information about this guy . . . regarding activity in and around his home, sales from his home, [or] known sales to anyone." (R. pp. 83-84). The court also clarified that it made *no* finding under *Franks v. Delaware* and cast no aspersion on the investigator. (R. pp. 81-83; p. 87).

STANDARD OF REVIEW

On appeal from a ruling on a Fourth Amendment search-and-seizure question, the appellate court applies a bifurcated standard: it reviews the circuit court's factual findings for "any evidentiary support," while the ultimate legal conclusion is reviewed *de novo*. *State v. Frasier*, 437 S.C. 625, 633, 879 S.E.2d 762, 766 (2022). The circuit court's findings about what the affidavit did and did not contain are thus entitled to deference so long as any evidence supports them—and here the affidavit itself supplies that support.

Where the search was conducted under a warrant, the reviewing court asks whether the issuing magistrate had a "substantial basis" for concluding probable cause existed. *Illinois v. Gates*, 462 U.S. 213, 236 (1983); *State v. Bellamy*, 336 S.C. 140, 143, 519 S.E.2d 347, 348-49 (1999). Deference to the magistrate is real, but it is not abdication: the affidavit must still contain facts from which the magistrate could independently find a fair probability that contraband would be found *in the place to be searched*. Because the affidavit is a cold, four-corners record, *de novo* review of that legal question does not favor the State here. Even taking into consideration the Investigators' supplemental testimony, probable cause is still lacking.

In reviewing a magistrate's probable cause determination, a circuit court judge must determine whether the issuing magistrate had a substantial basis on which to conclude that

probable cause existed. *State v. Kinloch*, 410 S.C. 612, 617, 767 S.E.2d 153, 155 (2014), *State v. Baccus*, 367 S.C. 41, 50, 625 S.E.2d 216, 221 (2006).

ARGUMENT

I. The circuit court correctly suppressed the evidence because the affidavit established no nexus between the suspected drug activity and Harris's residence.

A. Probable cause to search a home requires a nexus linking the criminal activity to that place; a suspect's status as a drug dealer is not enough.

The touchstone of the Fourth Amendment is a fair probability that evidence of crime will be found *in the particular place to be searched. Gates*, 462 U.S. at 238. It is not enough for an affidavit to show that a suspect is probably a criminal; it must show a fair probability that evidence will be found in the specific location the officers wish to enter. The required link is the "nexus" between the criminal activity and the place, and it is indispensable when the place is a home.

South Carolina law enforces that requirement. In *State v. Gentile*, 373 S.C. 506, 646 S.E.2d 171 (Ct. App. 2007), complaints of heavy traffic at a residence, a citizen's complaint of a marijuana odor nearby, and the arrest of a visitor found with marijuana were held insufficient to establish that nexus, because the affidavit and the supplemental oral testimony were not enough to provide the magistrate with a substantial basis for which to find probable cause to issue the search warrant. The Supreme Court's decision in *State v. Kinloch*, 410 S.C. 612, 767 S.E.2d 153 (2014), confirms the framework: the question is whether "a sufficient nexus" exists between the residence and the drug activity. *Kinloch* upheld a warrant—but only because the affidavit there described months of complaints and officers' direct observation of hand-to-hand transactions and money-counting *at the residence itself*. That is precisely the observed, place-specific activity that is absent here. In the case at bar, the place-specific activity is non-existent.

The Fourth Circuit applies the same rule with force. "...[R]esidential searches have been upheld only where some information links the criminal activity to the defendant's residence." *United States v. Lalor*, 996 F.2d 1578, 1583 (4th Cir. 1993), citing *United States v. Williams*, 974 F.2d 480, 481-82 (4th Cir. 1992). "In determining whether a search warrant is supported by probable cause, the crucial element is not whether the target of the search is suspected of a crime, but whether it is reasonable to believe that the items to be seized will be found in the place to be searched." *Id.*, at 1582, citing *Zurcher v. Stanford Daily*, 436 U.S. 547, 556, 56 L.Ed.2d 525, 98 S.Ct. 1970 (1978).

In *United States v. Lyles*, the court affirmed suppression where the affidavit failed to connect marijuana activity to the home, 910 F.3d 787 (4th Cir. 2018) (affirming suppression where a single trash pull yielding marijuana residue did not provide a substantial basis to find probable cause to search the home, and the warrant was strikingly overbroad). And in *United States v. Doyle*, the court reaffirmed that "the nexus between the place to be searched and the items to be seized may be established by the nature of the item and the normal inferences of where one would likely keep such evidence," but that allegations a person committed a crime, standing alone, do not establish probable cause to search that person's home. 650 F.3d 460, 471-72 (4th Cir. 2011), *quoting United States v. Anderson*, 851 F.2d 727, 729 (4th Cir. 1988).

B. The affidavit and supplemental testimony contained no facts connecting drug activity to the residence.

Measured against that standard, the affidavit fails. Stripped to its facts, it established only that: (1) Mixon accused "Bug" of threatening him at a gas station over a drug debt; (2) Mixon said "Bug" was a dealer and that Mixon had middle-manned transactions for him; (3) officers identified "Bug" as Harris and confirmed his address and vehicles; and (4) Harris had a criminal history that

included drug offenses. Every one of those facts goes to *who* Harris is—not to whether contraband would be found *in his home*.

Conspicuously absent from the affidavit is any observed connection between drugs and the residence. There was no controlled buy. There was no surveillance of the home—no observation of foot or vehicle traffic at any time of day. There was no trash pull. There was no statement, from Mixon or anyone else, that drugs were kept, stored, packaged, or sold at the residence. The circuit court in the case at bar found exactly that:

> "There were no specifics from anybody on any sales occurring in and around the house . . . . There was no surveillance conducted on traffic . . . . I don't think there was any evidence proffered to the magistrate that they had any known sales to anyone." (R. p. 57.)

Additionally, as in *United States v. Lyles*, the search warrant here provided authority to search and seize items wholly disconnected from an assault and battery, which was the alleged premise of the warrant. As in *Lyles*, the search warrant in question allows for the search and seizure of computer hardware and portable communication devices, as well as the search of every book, record and document in the home, among numerous other items. 910 F.3d 787, 794 (2018). The Court in *Lyles* referred to the search warrant as "astoundingly broad" and "resembling a general warrant." *Id.*

We see that same situation here as well. The officers here used the premise of the alleged assault to link the defendant to narcotics dealing. However, there is no nexus between the assault and narcotics dealing, nor is there any nexus between the home and any alleged drug activity, and the officers cannot create one by simply including every item in the home as the target of their search.

C. The belated, undated oral "hand-to-hand" reference does not supply the missing nexus.

Anticipating this gap, the State leans on Investigator Nations's oral supplementation—a reference to an earlier investigation in which officers purportedly saw a "hand-to-hand" transaction near the address, then stopped the other participant and found drugs. (R. pp. 33-34) That testimony does not rescue the warrant, for several reasons.

First, it was undated. Investigator Nations gave no timeframe at all, calling the episode only "prior" and "ongoing." (R. p. 34) An affidavit—or supplement—that cannot fix a transaction in time cannot establish a *present* fair probability that drugs remain at the home. The circuit court made precisely this point: "What I'm listening for as a judge when I'm wanting to provide a search warrant is, Judge, about a week ago. Judge, recently. Within 10 days this happened, and we followed this happening. This is vague information, and it seems to be more of a hunch or a gut feeling. And search warrants shouldn't be based on hunches and gut feelings." (R. pp. 60-61) Vague, stale information is entitled to little weight in the probable-cause calculus.

Second, the transaction described was not tied to the home. Investigator Nations testified that a gray in color Dodge Ram 1500 and another individual met "in front of the roadway." There was no testimony that the meeting occurred in front of the house, or that either party had just exited the house prior to the alleged hand-to-hand exchange. Further, the individual with the drugs was stopped elsewhere and the drugs were recovered from that person, not the residence. (R. p. 34) That is the *Gentile* problem exactly—activity involving a third party, not evidence located at or emanating from the house. 373 S.C. 506, 646 S.E.2d 171 (2007).

Third, the affidavit itself did not contain this account; its four corners referred only, and conclusory, to unspecified "previous investigations." (R. p. 7) Whatever latitude a magistrate has to consider sworn oral supplementation, that supplementation must still supply *facts*, and a vague, undated reference to a third-party stop cannot substitute for the place-specific

nexus the affidavit never established. At a minimum, this belated and unparticularized information cannot carry the weight the State now places on it. (R. pp. 33-34; p. 44)

There was no testimony provided for WHEN the alleged transaction occurred, WHO was involved, WHAT narcotics were being sold, or WHERE it even occurred. Although the State would like the court to infer that "in front of the roadway" is in front of the defendant's residence, that information is simply not in the record.

D. The informant's statements, even fully credited, did not connect drugs to the home.

The State emphasizes that Mixon spoke face-to-face and made statements against his penal interest. Even accepting that those features lend his account some reliability, reliability and nexus are different questions. A perfectly credible statement that "Harris is a drug dealer who once used me as a middleman" still says nothing about whether drugs are *in Harris's house*. Reliability cannot manufacture a nexus that the words themselves never supply.

II. The good-faith exception does not save the warrant, because the affidavit was bare bones as to the dispositive nexus element.

The State argues that even if probable cause was lacking, the evidence should come in under the good-faith exception of *United States v. Leon*, 468 U.S. 897 (1984). It should not. *Leon* itself withholds good faith where an affidavit is "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable." *Id.* at 923. South Carolina applies that same limitation. *State v. Robinson*, 408 S.C. 268, 277, 758 S.E.2d 725, 730 (2014), *State v. Weston*, 329 S.C. 287, 293, 494 S.E.2d 801, 804 (1997).

This is the paradigm bare-bones case. An affidavit that only establishes that Mr. Harris was under investigation for dealing drugs but contains *no* facts connecting drugs to the place searched—no controlled buy, no surveillance, no observed sale, no informant statement placing

contraband in the home—is "so lacking in indicia of probable cause" on the nexus element that reliance on it is objectively unreasonable. The Fourth Circuit has held squarely so. In *United States v. Wilhelm*, 80 F.3d 116, 121 (4th Cir. 1996), good faith did not apply where a magistrate "rubber-stamped" a "bare bones" affidavit of "wholly conclusory statements." And in *Doyle*, 650 F.3d at 474-76, the court refused to apply good faith where the affidavit omitted facts essential to probable cause, including any indication of timing. The circuit court's findings here—that the warrant rested on "a hunch or a gut feeling" and that the drug information was "vague" and "insufficient" (R. pp. 60-61)—are findings of exactly the bare-bones character that forecloses good faith.

The State's reliance on cases like *Lalor* is misplaced. Although *Lalor* applied good faith despite a nexus failure, it did so because the affidavit there was supported by corroborated buyer-informants and a drug arrest only days earlier tying the defendant to ongoing dealing—materials that made reliance at least arguable. *Lalor*, 996 F.2d at 1583. Here, by contrast, there was no recent, dated, place-connected activity at all. The affidavit did not merely fall short of probable cause; it omitted the nexus element altogether, which is what separates a merely "thin" affidavit that good faith may excuse from a "bare bones" affidavit that it may not. Because there was no place-specific misconduct for the exclusionary rule to overlook, suppression was the correct remedy.

The State also complains that the circuit court did not expressly rule on good faith. But the court's findings necessarily reject it: a warrant resting on a "hunch" cannot simultaneously be one on which reliance was objectively reasonable. In all events, this Court may affirm on the good-faith ground as a matter of law on this record. *I'On*, 338 S.C. at 419-20, 526 S.E.2d at 723; Rule 220(c), SCACR.

III. In the alternative, this Court may affirm because the officers exceeded the scope of the warrant by manipulating the residence's plumbing to force contraband into the septic tank.

Even if the warrant were valid, the manner of its execution supplies an independent ground to affirm suppression of the narcotics, which were recovered only after officers manipulated the home's plumbing. A search under a warrant is "limited in scope by the terms of the warrant's authorization," and its execution must be reasonable. The circuit court found that officers, having looked in the septic tank and seen nothing, then engaged in "the manipulation of the plumbing system to flush it," which "increased the scope of the search . . . unnecessarily." (R. p. 62; p. 86) As the court observed, the stated justification—searching for a firearm—was illogical, because a gun "will not flow through a septic system," confirming that the plumbing manipulation was in substance an unauthorized effort to generate drug evidence. (R. p. 62)

The warrant's own terms confirm the point. It authorized a search of the dwelling and "all persons, outbuildings, vehicles and any and all locked storage containers associated with the property." (R. p. 2) A septic tank is neither an outbuilding nor a vehicle nor a "locked storage container"—it is a component of the home's waste-disposal system—and forcing its contents by repeatedly flushing the toilets is not a search of a "container" at all, but the affirmative creation of the very evidence sought. This ground is preserved for affirmance under Rule 220(c), SCACR, and *I'On*. Harris raised the scope-of-execution objection below (R. pp. 26-28; pp. 43-44), and the record squarely presents it. Should the Court reach the question, the manipulation of the plumbing to move suspected contraband into the tank exceeded any reasonable understanding of the warrant, and the narcotics recovered as a result were properly suppressed.

CONCLUSION

The circuit court correctly held that an affidavit establishing only that Harris was a drug dealer—while saying nothing about drugs at his home—did not give the magistrate a substantial basis to find probable cause to search the residence, and that the good-faith exception could not