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CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Joseph T. Rowland, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2021-000089

ON WRIT OF CERTIORARI

Appeal From Charleston County
Bentley Price, Circuit Court Judge

Unpublished Opinion No. 2026-UP-436
Heard February 11, 2026 – Filed September 16, 2026

REVERSED

Attorney General Alan McCrory Wilson and Assistant
Attorney General Zachary William Jones, both of
Columbia, for Petitioner.

Senior Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Respondent.

PER CURIAM: The State appeals the post-conviction relief (PCR) court's order granting Joseph T. Rowland a new trial, arguing the PCR court erred by finding (1) trial counsel was ineffective for failing to argue additional grounds in support of the motion to suppress the cocaine and marijuana found in Rowland's home; (2) trial counsel was ineffective for failing to renew the objection to the admission of the drug evidence during trial; (3) trial counsel was ineffective for failing to call Rowland's father and brother to testify; and (4) Rowland's brother's claim that the cocaine found in Rowland's home belonged to him constituted after-discovered evidence. We reverse.

FACTS AND PROCEDURAL HISTORY

In 2011, a Charleston County Grand Jury indicted Rowland for trafficking cocaine, possession with intent to distribute (PWID) marijuana, possession of a firearm during the commission of a violent crime, and unlawful possession of a stolen pistol.

Rowland made a pretrial motion to suppress evidence found during a search of 31 Woodleaf Court (31 Woodleaf). The search warrant affidavit described the property to be searched and stated police believed 31 Woodleaf contained the property sought based upon the following:

Over the past 6 months, the Charleston Police Department [(CPD)] Special Investigations Unit [(SIU)] has received numerous complaints of narcotic activity from citizens, in reference to illegal narcotics being sold from 31 Woodleaf Ct. SIU has been conducting a[n] investigation on this residence and Joseph Rowland for more th[a]n a year for narcotic activity.

In response, within the past 72 hours, the CPD [SIU] utilized established [sic] a fixed surveillance location in which Inv. [Brandon] Ratliffe and Inv. [Keith] Sumner observed Joseph Todd Rowland, a registered resident at this location, conduct a hand to hand narcotics transaction. At approx 1440hrs. Joseph Rowland was observed exiting the residence via the front door and walk[ing] up to a vehicle which parked in front of the residence. Joseph Rowland approached the door of the vehicle and conducted a hand to hand transaction with a

person inside the vehicle Within 1 minute of making contact with the driver of the vehicle Joseph Rowland then walked back into the above residence. The vehicle . . . then immediately left the area. Inv. Ratliffe and Inv. Sumner then corroborate[d] this by having a CPD patrol unit conduct a traffic stop on the above vehicle . . . and locate an amount of illegal narcotics. The driver of the vehicle then wrote a statement confirming the above[-]mentioned transaction of illegal narcotics.

Your affiant, Inv[.] C. Ratliffe, is a sworn police officer with the [CPD] and has been for over 7 years with 1 year experience conducting narcotics investigations with the CPD Narcotics Unit. He has attended several narcotics investigation schools and seminars over the course of h[is] career taught by the Drug Enforcement Administration, the South Carolina Criminal Justice Academy, and the Multi-jurisdictional Counterdrug Task Force Training. He has executed countless search warrants and has been involved in the arrest of over approximately 500 subjects for illegal drug offenses. Furthermore, he has conducted surveillance on suspected drug dealers, testified in court, managed informants, and interviewed numerous suspects and witnesses for drug related crimes.

Based on Inv. Ratliffe's experience and the current investigation, there is probable cause to believe that illegal narcotics, and/or the proceeds of, are being stored at 101 A Pamlico Terrace., Charleston, SC 29455 [sic].¹

¹ During the suppression hearing, Rowland challenged the affidavit on the ground that it referenced an incorrect address. Ratliffe testified he used a template from a prior affidavit to complete the affidavit for 31 Woodleaf and inadvertently failed to correct the reference to a different address. The trial court refused to suppress the evidence on this basis, noting the correct address was listed in the affidavit, and found the later reference to an incorrect address was a scrivener's error.

During the suppression hearing, Officer Brandon Ratliffe, who was working as the lead detective on the SIU at the time of Rowland's arrest, testified he applied for a search warrant from a magistrate. Ratliffe testified he supplemented the affidavit with oral testimony about his background with Rowland, the different calls he had responded to involving Rowland "at that residence and elsewhere, the numerous complaints that [they] had received, and the fact that [he] had spoken with" Rowland's twin brother, John Rowland (Brother). Ratliffe testified he spoke to Brother and the mother of Brother's children about Rowland's "different activities" and "what specifically [Rowland] did at that house"; he stated Brother did not "specifically say [Rowland] was selling drugs but alluded to" information consistent with Rowland "continuing to do so and that he had prior knowledge of [Rowland] doing that in the past." Ratliffe stated he did not include this information in the affidavit because Rowland would receive a copy of the affidavit when the search was conducted and CPD did not "give out [sensitive information] to protect identities."

Ratliffe further explained that while he and Officer Keith Sumner were conducting surveillance of 31 Woodleaf on the afternoon of June 3, 2011, they observed a blue car drive up and park in front of 31 Woodleaf, facing them. He stated that after about thirty seconds, Rowland walked out of the home, went directly "to the passenger side window, reached in through the window, appeared to do a hand-to-hand transaction, giving the driver who was the sole occupant of that vehicle what he had, got something," "immediately turned[,] and went back into" the home. The blue car then drove off.

Ratliffe testified there was another surveillance unit stationed nearby and a patrol unit in the neighborhood. The surveillance unit spotted the car, and Ratliffe and Sumner contacted the patrol unit, which initiated a traffic stop of the car. The patrol unit found cocaine and marijuana in the vehicle and relayed that the driver wanted to speak to a narcotics detective after he was given the option to do so. Ratliffe testified he responded and advised the driver of his rights. The driver then told Ratliffe and Sumner he had just purchased marijuana and cocaine from someone he knew as "Blow." Ratliffe testified he knew "Blow" to be Rowland and that he sold marijuana and cocaine.

Sumner also testified during the suppression hearing, and his testimony was consistent with Ratliffe's. The trial court denied Rowland's motion to suppress, concluding probable cause supported the warrant under the totality of the circumstances.

During trial, Ratliffe testified he received information from several sources that led the CPD to conduct surveillance on Rowland's home. He stated that while surveilling the home, he observed Rowland participate in a hand-to-hand transaction. Ratliffe obtained a search warrant for 31 Woodleaf, where Rowland and his parents lived, to look "for illegal narcotics and any items that would indicate" using or distributing illegal narcotics. Ratliffe testified Brother, his two children, and their mother arrived at the residence "just before police did" and were standing outside prior to the execution of the warrant. Ratliffe stated Rowland's parents left the home while police secured it.

Ratliffe stated there were three bedrooms in the home: Rowland's parents' bedroom, which contained nothing of interest, on the first floor, and two additional bedrooms on the second floor. Ratliffe testified that one of the upstairs bedrooms was locked, looked as though someone no longer lived in it, and contained nothing of interest. Ratliffe recalled that while he was interviewing persons at the home during the search, Brother told him he previously stayed in this bedroom but had moved out several months earlier and locked the door.

Testimony also showed the other upstairs bedroom, which Ratliffe testified belonged to Rowland, contained photographs of Rowland and his child, a bill for Rowland, and a bank statement or letter with Rowland's name and the address for 31 Woodleaf. Officers testified that in the same bedroom, police found: (1) several cellphones; (2) multiple scales; (3) a notebook containing a ledger and miscellaneous papers; (4) a bag containing approximately 10.5 grams of a white powdery substance that was consistent with cocaine; (5) a stolen .45 caliber gun; (6) a Criminal Procedure Guide for Drug Agents; (7) Ziploc bags; (8) a Gucci bag or handbag containing a large bag of thirty-four grams and twenty-one individual baggies weighing one gram each of a white powdery substance consistent with cocaine; and (9) a Tupperware container with four baggies and one large plastic baggy containing twelve grams of a green leafy substance consistent with marijuana. Ratliffe testified they also found over \$1,400 on Rowland's person. Testing showed police collected a total of 9.19 grams of marijuana, 47.97 grams of cocaine, and 9.48 grams where cocaine was detected.

The trial court granted Rowland's motion for directed verdict as to the unlawful possession of a stolen pistol charge. The jury found Rowland guilty as indicted on the remaining offenses. The trial court sentenced Rowland to twenty years' imprisonment for the trafficking charge, five years for PWID marijuana, and five years for the weapon charge, to run concurrently. Rowland appealed, and this

court affirmed his convictions and sentence in an unpublished opinion. *See State v. Rowland*, Op. No. 2017-UP-225 (S.C. Ct. App. filed May 24, 2017).

Rowland filed an application for PCR, alleging several grounds for ineffective assistance of counsel, arguing trial counsel failed to (1) argue additional grounds in support of the suppression motion, including that police failed to leave a copy of the search warrant affidavit in violation of section 17-13-150 of the South Carolina Code (2014) or show that the tipsters were reliable, the tips were not stale, and that there were no drugs in the blue car before it was stopped; (2) preserve the suppression motion; (3) call Father and Brother to testify during the suppression hearing; and (4) call Father as a witness during trial to testify he owned the handgun found in the home. Rowland additionally argued he had newly discovered evidence in the form of Brother's affidavit, in which Brother claimed ownership of the cocaine found in the home and explained his reason for failing to come forward sooner.

During the PCR hearing, Rowland admitted 31 Woodleaf was his residence but asserted he was not present when the search warrant was served because he was involved in a traffic stop a couple blocks away at the time. He testified he wanted Brother to testify at the suppression hearing because he would have impeached Ratliffe's testimony that Brother told him Rowland had been involved with drug activity in the past. Rowland explained that although he discussed this with trial counsel, trial counsel did not call Brother to testify. Rowland noted that at his preliminary hearing, Ratliffe testified (1) Rowland was not present when police served the warrant and (2) he did not "leave the search warrant affidavit at the house because he was protecting an informant."² Rowland believed police fraudulently placed him at the home several hours after the execution of the warrant to suggest he had constructive possession of the evidence found in the home. Rowland further averred trial counsel should have raised additional challenges to the search by challenging the reliability of the driver of the blue car and law enforcement's failure to test the drugs found in the blue car.

As to Brother's claimed ownership of the drugs, Rowland testified that prior to trial, he knew the drugs did not belong to him because he was not present at the

² The transcript of the preliminary hearing, which the PCR court admitted into evidence, shows Ratliffe testified (1) he left a copy of the search warrant but not the affidavit because they were protecting "the nature of some of the investigation," and (2) Brother, Brother's girlfriend, and their two children were present during the execution of the search warrant.

house during the search but that he was not aware the drugs belonged to Brother until Brother told him after trial. He stated he also wanted Brother to testify that the drugs found in the home belonged to Brother "because he was present at the house during the time of the search warrant." As to Father's claimed ownership of the gun, Rowland testified he told trial counsel the gun belonged to Father and trial counsel had Father's statement claiming ownership of the gun but did not present it at trial.

Father testified that if trial counsel had called him to testify during trial, he would have testified that the gun belonged to him. Father explained he found the gun at a rental property that he owned and brought it back to 31 Woodleaf and "forgot about it." Father also testified that Rowland was not home when officers conducted the search and that he did not recall seeing a search warrant.

Brother testified he did not "have any conversations [with Ratliffe] about drug activity . . . at 31 Woodleaf" and never told him that Rowland was involved with drugs. Brother acknowledged he had interacted with Ratliffe in the past because Ratliffe "pulled [him and Rowland] over all the time." He stated he did not tell trial counsel about any conversations he had with Ratliffe. When questioned whether he talked to trial counsel about "Ratliff[e]'s probable cause to search the house," Brother testified he "asked a few questions here and there" and that trial counsel told him he would call him but never did.

Regarding ownership of the drugs, Brother testified the Gucci bag and the cocaine found in the bag belonged to him. He explained that in the affidavit he provided on August 21, 2015, he "accept[ed] full responsibility and ownership of the cocaine" and stated he "did not come forward here earlier or at trial [because he] was scared of losing [his] kids to the Department of Social Services [(DSS)]." Brother testified that if trial counsel had called him as a witness at trial, he would have testified to the information in the affidavit. He stated he spoke to trial counsel prior to trial and told him the drugs were his. Brother recalled that trial counsel told him that "the trial [wa]s going to last about a week" and that trial counsel said would call him when he needed him but never did. Brother confirmed he was in town at the time of trial.³

Brother further stated,

³ On the final day of trial, trial counsel, Father, and Rowland's mother all indicated to the trial court that Brother was not present because he was undergoing treatment for cancer. Brother was not questioned about this during the PCR hearing.

I'm going to be real with you man to man to the judge and everybody in this courtroom right now. I've been living with this burden for so long and I have to come out and get it off my chest. Those are my drugs, you know, and my brother got charged for it. And that's not right, you know.

I didn't live a good life in the past. I changed my life around but at the same time I just have to get this off my chest, I had to tell the truth. It was my drugs. I'm sorry, Joseph. I truly am. I'm sorry.

On cross-examination, Brother stated he and his wife were in the house when the drugs were found, that he "was there all the time every single day," and that he believed the drugs were "found in [his] room actually." Brother testified that both rooms upstairs were locked at the time of the search and that officers kicked in both doors to open them. He testified Rowland was not present because he had been pulled over nearby.

Trial counsel testified Brother spoke to him prior to trial and asked "what if [Brother] were the one to testify that it was his drugs." Trial counsel stated he explained to Brother that this created a conflict of interest for him and that if Brother was telling the truth, he should obtain his own counsel and discuss it with them "because these [we]re some serious charges" with "serious consequences." Trial counsel stated he told Brother that after Brother consulted with his own counsel, trial counsel would "be more than happy to put him on the stand if that was the truth" and if he was "prepared to maybe go to prison for a long [time]" but trial counsel never heard from anyone. Trial counsel testified he never listed Brother's name on the witness list and acknowledged Brother had some issues regarding his criminal history and pending DSS case; nevertheless, trial counsel stated he "[would not] have hesitated to" call him as a witness if Brother "had said I'm perfectly willing to get up and say I'm guilty versus" Rowland but Brother "never said that." He stated Rowland did not tell him the drugs belonged to Brother, but he noted he told Rowland that if Brother was telling the truth regarding the drugs and was going to tell the truth on the stand, they could call him as a witness. However, he warned Rowland not to "get [them] caught in a switchback."

The PCR court granted PCR based on each of the grounds Rowland raised in his PCR action. This appeal follows.

ISSUES ON APPEAL

- I. Did the PCR court err by finding trial counsel was ineffective for failing to raise additional arguments to support the motion to suppress?
- II. Did the PCR court err by finding trial counsel was ineffective for failing to renew his objection to the admission of the drug evidence during trial?
- III. Did the PCR court err by finding trial counsel was ineffective for failing to call Father or Brother to testify?
- IV. Did the PCR court err by finding Brother's testimony met the standard for after-discovered evidence?

STANDARD OF REVIEW

"Our standard of review in PCR cases depends on the specific issue before us. We defer to a PCR court's findings of fact and will uphold them if there is evidence in the record to support them." *Smalls v. State*, 422 S.C. 174, 180, 810 S.E.2d 836, 839 (2018). "We review questions of law de novo, with no deference to trial courts." *Id.* at 180-81, 810 S.E.2d at 839. "[W]e 'will reverse the PCR court only where there is either no probative evidence to support the decision or the decision was controlled by an error of law.'" *Rivers v. State*, 446 S.C. 1, 10, 916 S.E.2d 335, 340 (2025) (quoting *Edwards v. State*, 392 S.C. 449, 455, 710 S.E.2d 60, 64 (2011)).

ANALYSIS

I. Failure to Argue Additional Issues to Support Motion to Suppress

To establish a claim for ineffective assistance of counsel, a PCR applicant must show (1) counsel's representation was deficient because it "fell below an objective standard of reasonableness"; and (2) "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984). "[T]he burden of proof is on the [PCR] applicant to prove the allegations in his application." *Speaks v. State*, 377 S.C. 396, 399, 660 S.E.2d 512, 514 (2008).

The South Carolina Constitution and the Fourth Amendment of the United States Constitution both protect against unreasonable searches and seizures and state that a search warrant may not be issued except "upon probable cause, supported by oath or affirmation." U.S. Const. amend. IV; S.C. Const. art I, § 10; *see also* S.C. Code Ann. § 17-13-140 (2014) ("A warrant issued hereunder shall be issued only upon affidavit sworn to before the magistrate . . ."). "A magistrate may issue a search warrant only upon a finding of probable cause." *State v. Dupree*, 354 S.C. 676, 684, 583 S.E.2d 437, 441 (Ct. App. 2003). "The affidavit must contain sufficient underlying facts and information upon which the magistrate may make a determination of probable cause." *Id.* "A warrant is supported by probable cause if, given the totality of the circumstances set forth in the affidavit, there is a fair probability that contraband or evidence of a crime will be found in a particular place." *State v. Kinloch*, 410 S.C. 612, 617, 767 S.E.2d 153, 155 (2014). "In reviewing a magistrate's probable cause determination, circuit court judges must determine whether the issuing magistrate had a substantial basis upon which to conclude that probable cause existed." *Id.* "An appellate court reviewing the decision to issue a search warrant should decide whether the magistrate had a substantial basis for concluding probable cause existed." *Dupree*, 354 S.C. at 683, 583 S.E.2d at 441. "This review, like the determination by the magistrate, is governed by the 'totality of the circumstances' test." *Id.* (quoting *State v. Jones*, 342 S.C. 121, 126, 536 S.E.2d 675, 678 (2000)).

Even assuming trial counsel was deficient for failing to argue additional grounds to support the motion to suppress, we hold Rowland was not prejudiced by this deficiency because there is no reasonable probability that had trial counsel argued these grounds the result of the suppression hearing would have been different. *See Strickland*, 466 U.S. at 694 (stating that to show prejudice, a PCR applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different"); *see also Rivers*, 446 S.C. at 11, 916 S.E.2d at 341 ("[I]f it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice . . . that course should be followed." (alterations in original) (quoting *Strickland*, 466 U.S. at 697)); *id.* at 10-11, 916 S.E.2d at 341 (finding the PCR applicant failed to satisfy the prejudice prong and declining to address whether counsel was deficient). The magistrate court had a substantial basis for concluding probable cause existed based upon the information contained in the search warrant affidavit. *See Dupree*, 354 S.C. at 685, 583 S.E.2d at 442 ("The magistrate's task in determining whether to issue a search warrant is to make a practical, common sense decision concerning whether, under the totality of the circumstances set forth in the affidavit, including the veracity and basis of

knowledge of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in the particular place to be searched."); *Kinloch*, 410 S.C. at 617, 767 S.E.2d at 155 ("In reviewing a magistrate's probable cause determination, circuit court judges must determine whether the issuing magistrate had a substantial basis upon which to conclude that probable cause existed.").

Specifically, the affidavit provided police (1) had been conducting an investigation on 31 Woodleaf and Rowland for more than one year regarding narcotics; (2) received several complaints over the preceding six months regarding narcotics being sold at 31 Woodleaf; (3) surveilled 31 Woodleaf and observed a vehicle drive up and park in front of it, Rowland exit the home, reach inside the vehicle, and engage in a, or what appeared to be a, hand-to-hand transaction, reenter the home shortly thereafter, and the vehicle leave; and (4) conducted a traffic stop on the vehicle, located drugs in the vehicle, and obtained a written statement from the driver confirming the drug transaction. *Compare Kinloch*, 410 S.C. at 617-18, 767 S.E.2d at 156 (concluding the magistrate had a substantial basis for finding probable cause because the affidavit indicated (1) police "received numerous complaints over the course of several months regarding drug activity at" the searched premises; (2) police, before seeking a search warrant, "observed activity consistent with drug activity when they observed parties conducting 'hand-to-hand' transactions outside [the searched premises] and saw a man counting money as he returned to the residence"; (3) police, based in part on that observation, "followed the man they had seen outside [the searched premises] to a nearby gas station, where they saw this man hand another unknown man . . . a clear plastic wrapping in exchange for money"; and (4) when police "approached [the man], he dropped the clear plastic baggy, the contents of which tested positive for heroin"), *with State v. Gentile*, 373 S.C. 506, 514-18, 646 S.E.2d 171, 174-77 (Ct. App. 2007) (finding the following facts did not support probable cause: (1) anonymous "citizens' tips regarding high volume traffic at Gentile's residence"; (2) a "citizen[s] claim regarding the smell of marijuana in the vicinity of Gentile's residence[, which] was vague and not corroborated by the officers' surveillance"; and (3) "the officers' arrest of a visitor to Gentile's residence," when police did not know if he purchased drugs from Gentile and police did not search the person or his vehicle prior to it going to his home). Based upon the information in the affidavit, we hold the magistrate had a substantial basis for finding probable cause existed.⁴

⁴ During the suppression hearing, Ratliffe also testified about seeing a man ride up on a bicycle, briefly meet with Rowland in Rowland's car, and then get back on his

Even if trial counsel had challenged the reliability of the tips, the affidavit provided the officers conducted their own surveillance based upon the tips. The officers' surveillance of the home and observation of what they believed to be a hand-to-hand transaction corroborated the tips. Thus, the officers did not rely on the tips alone to establish probable cause. *Cf. State v. Martin*, 347 S.C. 522, 527, 556 S.E.2d 706, 709 (Ct. App. 2001) ("[A] warrant based solely on information provided by a confidential informant must contain information supporting the credibility of the informant and the basis of his knowledge." (alteration in original) (quoting *State v. 192 Coin-Operated Video Game Machs.*, 338 S.C. 176, 192, 525 S.E.2d 872, 881 (2000))). Similarly, even if trial counsel had challenged the reliability of the driver of the blue car, the search warrant was not based solely on the driver's statement. Rather, the affidavit stated officers observed what appeared to be a hand-to-hand transaction between the driver of the blue car and Rowland, after which law enforcement stopped the driver before he left the neighborhood and found drugs in the car. The driver then stated he had purchased the drugs from Rowland. Had trial counsel raised these challenges, there is no reasonable probability the outcome of the motion would have been different because there was a substantial basis for the magistrate to determine probable cause existed given the totality of the circumstances set forth in the affidavit. *See Kinloch*, 410 S.C. at 617, 767 S.E.2d at 155 ("A warrant is supported by probable cause if, given the totality of the circumstances set forth in the affidavit, there is a fair probability that contraband or evidence of a crime will be found in a particular place."); *id.* ("In reviewing a magistrate's probable cause determination, circuit court judges must determine whether the issuing magistrate had a substantial basis upon which to conclude that probable cause existed."). Accordingly, we hold the PCR court erred in finding that Rowland was prejudiced by trial counsel's failure to raise these additional issues to support the suppression motion.

Further, we hold the PCR court erred in finding Rowland was prejudiced by trial counsel's failure to argue that section 17-13-150 required suppression of the evidence based upon officers' failure to leave a copy of the affidavit at the home when they served the search warrant. Section 17-13-150 provides that when a person "is served with a search warrant, such person shall be furnished with a copy of the warrant along with the affidavit upon which such warrant was issued."

bicycle and ride away. It is unclear whether this testimony was presented to the magistrate. However, even if the magistrate considered this incident, this does not affect our analysis because, as we stated, we hold the information supplied in the affidavit was sufficient to support the magistrate's finding of probable cause.

Nothing in the text of section 17-13-150 requires suppression of the evidence based upon noncompliance with its provisions; further, we have identified no South Carolina case law requiring suppression of evidence based upon noncompliance with section 17-13-150. Accordingly, we hold law enforcement's failure to furnish a copy of the affidavit to the person served did not affect the validity of the search warrant or search and thus did not require suppression of the evidence seized in the search. *Cf. State v. Covert*, 382 S.C. 205, 208-09, 675 S.E.2d 740, 742 (2009) (rejecting the State's characterization that an omission of the issuing judicial officer's signature on a search warrant was "merely procedural or ministerial" and concluding the "signature [was] the assurance that a judicial officer ha[d] found that law enforcement ha[d] made the requisite probable cause showing, and serve[d] as notice to the citizen upon whom the warrant [was] served that it [was] a validly issued warrant"). We therefore hold the PCR court erred in finding Rowland was prejudiced by trial counsel's failure to argue this ground to support the motion to suppress.

II. Failure to Renew Objection to Introduction of Evidence

We hold the PCR court erred by finding that trial counsel's failure to renew his pretrial objection prejudiced Rowland. *See Strickland*, 466 U.S. at 700 ("Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim."); *see also Rivers*, 446 S.C. at 11, 916 S.E.2d at 341 ("[I]f it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice . . . that course should be followed." (alterations in original) (quoting *Strickland*, 466 U.S. at 697)); *Smalls*, 422 S.C. at 180, 810 S.E.2d at 839 (stating an appellate court will "defer to a PCR court's findings of fact and will uphold them if there is evidence in the record to support them"); *McHam v. State*, 404 S.C. 465, 475, 746 S.E.2d 41, 47 (2013) (acknowledging the court "previously held that an issue that was raised on direct appeal but found to be unpreserved may be raised in the context of a PCR claim alleging ineffective assistance of counsel"), *abrogated on other grounds by Smalls*, 422 S.C. at 181 n.2, 810 S.E.2d at 839 n.2. As we stated, the magistrate court had a substantial basis for finding probable cause existed because the affidavit provided police (1) received tips from the community regarding Rowland and his home; (2) surveilled the property, during which police observed Rowland exit his home, engage in what appeared to be a hand-to-hand transaction with the driver of a blue car, and reenter his home; and (3) conducted a traffic stop on the blue car, at which time police found cocaine and marijuana, and the driver stated he had purchased drugs from Rowland. *See Kinloch*, 410 S.C. at 617, 767 S.E.2d at 155 ("A warrant is supported by probable cause if, given the totality of the circumstances set forth in the affidavit, there is a

fair probability that contraband or evidence of a crime will be found in a particular place."); *Dupree*, 354 S.C. at 683, 583 S.E.2d at 441 ("An appellate court reviewing the decision to issue a search warrant should decide whether the magistrate had a substantial basis for concluding probable cause existed."). We hold Rowland failed to show there is a reasonable probability the outcome of the proceeding would have been different because his claim fails on the merits. *See McHam*, 404 S.C. at 475, 746 S.E.2d at 47 (concluding that "[s]ince the Fourth Amendment issue was not considered on direct appeal because it was unpreserved, an examination of the merits of the issue [wa]s appropriate in analyzing the prejudice prong"). Thus, the PCR court erred by finding Rowland demonstrated prejudice as to this ground.

III. Failure to Call Father and Brother to Testify

First, as to trial counsel's failure to call Father to testify during the suppression hearing, we hold there is no reasonable probability the trial court would have granted the motion to suppress the evidence had Father testified that Rowland was not home when law enforcement searched the residence. Whether Rowland was home when officers arrived to search the home is not relevant to the question of whether probable cause supported the search warrant. *See Dupree*, 354 S.C. at 685, 583 S.E.2d at 442 ("The magistrate's task in determining whether to issue a search warrant is to make a practical, common sense decision concerning whether, under the totality of the circumstances set forth in the affidavit, including the veracity and basis of knowledge of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in the particular place to be searched."); *Kinloch*, 410 S.C. at 617, 767 S.E.2d at 155 ("In reviewing a magistrate's probable cause determination, circuit court judges must determine whether the issuing magistrate had a substantial basis upon which to conclude that probable cause existed."). Accordingly, even if Father's testimony would have impeached Ratliffe's prior testimony that Rowland was present, there is no reasonable probability the outcome of the suppression motion would have been different. Thus, we hold the PCR court erred by finding trial counsel's failure to call Father to testify during the suppression hearing prejudiced Rowland.

Second, as to trial counsel's failure to call Father to testify during trial, we hold the PCR court erred by finding Rowland was prejudiced by trial counsel's failure to call Father to testify he owned the handgun. *See* S.C. Code Ann. § 16-23-490(A) (2015) ("If a person is in possession of a firearm or visibly displays what appears to be a firearm . . . during the commission of a violent crime and is convicted of committing or attempting to commit a violent crime as defined in [s]ection

16-1-60, he must be imprisoned five years, in addition to the punishment provided for the principal crime."); *see also* S.C. Code Ann. § 16-1-60 (Supp. 2025) (defining a violent crime to include "'drug trafficking' as defined in [s]ection 44-53-370(e)"); S.C. Code Ann. § 44-53-370(e)(2) (2018 & Supp. 2025) (stating "[a]ny person who knowingly sells . . . or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of: . . . ten grams or more of cocaine . . . is guilty of a felony which is known as 'trafficking in cocaine'"); *State v. Jennings*, 335 S.C. 82, 86, 515 S.E.2d 107, 109 (Ct. App. 1999) ("Proof of constructive possession, along with knowledge of the presence of the firearm, is sufficient to support a conviction for possession of a firearm."); *id.* at 87, 515 S.E.2d at 109 ("To prove constructive possession, the state must show that the defendant had dominion and control, or the right to exercise dominion and control, over the firearm." (quoting *State v. Halyard*, 274 S.C. 397, 400, 264 S.E.2d 841, 843 (1980))); *id.* ("Constructive possession may be established through either direct or circumstantial evidence, and possession may be shared.").

At the PCR hearing, Father testified that if trial counsel had called him to testify during trial, he would have testified that the gun belonged to him. However, Ratliffe testified the handgun was found on top of a shelf in Rowland's upstairs bedroom. He further testified this bedroom contained a photograph of Rowland with his daughter, a bill for Rowland, and a bank statement addressed to Rowland and showing Rowland's address as 31 Woodleaf. Thus, even if Father had testified at trial that he owned the handgun, this did not negate evidence that Rowland was in constructive possession of the handgun. For these reasons, we hold there is no reasonable probability Father's testimony would have changed the result at trial as to the possession of a weapon charge.

Finally, we hold the PCR court erred by finding trial counsel's failure to call Brother to testify during the suppression hearing prejudiced Rowland. As we stated, we conclude the magistrate had probable cause to issue the search warrant based upon the information in the affidavit, even excluding Ratliffe's oral testimony referencing his discussions with Brother. Thus, even if Brother's testimony would have impeached Ratliffe, we hold there is no reasonable probability such testimony would have changed the result of the suppression hearing. *See Kinloch*, 410 S.C. at 617, 767 S.E.2d at 155 ("In reviewing a magistrate's probable cause determination, circuit court judges must determine whether the issuing magistrate had a substantial basis upon which to conclude that probable cause existed."). Accordingly, we hold the PCR court erred by finding Rowland was prejudiced by this alleged deficiency.

IV. After-Discovered Evidence

We hold the PCR court erred by granting relief on the ground of after-discovered evidence because the record contains no evidence to support a finding that this evidence was discovered since the trial or that it could not, by the exercise of due diligence, have been discovered before the trial.

A party requesting a new trial based on after-discovered evidence must show that the evidence:

- (1) Is such as would probably change the result if a new trial was had;
- (2) Has been discovered since the trial;
- (3) Could not by the exercise of due diligence have been discovered before the trial;
- (4) Is material to the issue of guilt or innocence; and[]
- (5) Is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983) (quoting *State v. Caskey*, 273 S.C. 325, 329, 256 S.E.2d 737, 739 (1979)).

Rowland acknowledged during the PCR hearing that he knew the drugs found in the home did not belong to him but claimed he did not know they were Brother's until after trial. Further, trial counsel testified Brother spoke to him prior to trial and asked what would happen if he were to claim ownership of the drugs. Trial counsel stated he discussed this with Rowland. Moreover, Brother also provided testimony during the PCR hearing that he discussed claiming ownership of the cocaine with trial counsel. Based upon the testimonies of Rowland, Brother, and trial counsel indicating knowledge of this information prior to trial, we hold the PCR court erred by finding that Brother's affidavit constituted after-discovered evidence. *See id.* at 611, S.E.2d at 855 (requiring a person seeking a new trial based on after-discovered evidence to show the evidence has been discovered since the trial and could not, by the exercise of due diligence, have been discovered before trial); *id.* at 612, 299 S.E.2d at 855-56 (holding a defendant claiming he was framed for selling drugs failed to show that evidence of a setup was discovered

after trial when he mentioned all the alleged conspirators during trial and thus "evidence of the alleged setup was clearly known by and available to [him] at trial").

We acknowledge that our appellate courts generally defer to the PCR court's credibility findings and that the PCR court found Brother's testimony that the cocaine belonged to him as well as his reason for not coming forward sooner to be credible. *See, e.g., Thompson v. State*, 423 S.C. 235, 247, 814 S.E.2d 487, 493 (2018) (noting our appellate courts "defer to the PCR court's credibility findings as to witnesses who testified before the PCR court"). However, because Brother testified he spoke with trial counsel before trial about claiming ownership of the cocaine, we conclude the PCR court's credibility finding lacks evidentiary support in the record. Trial counsel also testified he and Brother had a conversation before trial about Brother taking ownership of the drugs and he told Brother to contact an attorney due to the seriousness of the charges and to have the attorney contact him but trial counsel never received a call. Trial counsel stated he would not have hesitated to call Brother as witness if Brother was willing to testify to that information and he told Rowland that if Brother was telling the truth about this and would tell the truth at trial, they could call him as a witness. For these reasons, we conclude evidence does not support the PCR court's credibility finding and we need not defer to such finding. Accordingly, we hold the PCR court erred by granting PCR on this issue.

CONCLUSION

For the foregoing reasons, the PCR court's order granting Rowland's application for PCR is

REVERSED.

WILLIAMS, C.J., and KONDUROS and VINSON, JJ., concur.