

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to the Court of Appeals
Appeal from Lexington County
The Honorable Debra R. McCaslin, Circuit Court Judge
Appellant Case No. 2026-001956

THE STATE,

RESPONDENT

v.

JEREMY SAVOY CORNISH,

PETITIONER

Opinion No. 6146

**RETURN TO PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS**

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PETITIONER'S QUESTION PRESENTED

1. The Court of Appeals erred in holding that the search warrant in the case was proper and the evidence seized thereafter admissible on the ground that the independent source doctrine cured the prior warrantless and unlawfully obtained DNA taken from Petitioner previously because the “genuinely independent” factor required under the independent source, which was sed to remedy the unlawful seizure, was not established in the case, which meant there the illegality of the prior wrongful DNA seized remained in effect, particularly where the seizure was accomplished via by bad faith and where the underlying reason for the requested search warrant sought after the illegal seizure was a clearly a precaution utilized to sanitize, minimize and erase the illegal DNA seized.

RESPONDENT'S COUNTER QUESTION PRESENTED

1. Did the trial court err in admitting the DNA evidence obtained by law enforcement from the Petitioner after being served a valid search warrant since it did not violate the independent source doctrine, and could the DNA been inevitably discovered since touch DNA was found at the crime scene which would have forced law enforcement to obtain a search warrant for DNA samples from all individuals possibly involved in the commission of this crime?

STATEMENT OF THE CASE

On December 17, 2019, the Petitioner, Jeremy Savoy Cornish, murdered Duwan Williams, Sheldon Livingston, and Brandon Booker. On August 8, 2022, the Lexington County Grand Jury indicted the Petitioner for three counts of murder and one count of Burglary in the First Degree (burglary 1st). On October 10 2022, Petitioner appeared before the Honorable Debra R. McCaslin for a jury trial. Also present was the Petitioner's trial counsel Jack Swerling, Alissa L. Wilson, and Leigh J. Leventis. Representing the State of South Carolina was Eleventh Circuit Solicitor, Samuel R. "Rick" Hubbard, III, Deputy Solicitor Suzanne Mayes, and Assistant Solicitor, Bruce H. Norton. On October 21, 2022, a jury of his peers found the Petitioner guilty of each of these charges. After the reciting of the verdict Petitioner appeared before the trial judge for sentencing. The trial judge proceeded to sentence the Petitioner to a term of imprisonment for the remainder of his natural life for each murder offense, and eighteen years for burglary 1st. Petitioner filed a timely notice of appeal before the South Carolina Court of Appeals.

On May 13, 2026, the Court of Appeals filed an opinion affirming the decision of the trial court. *State v. Cornish*, 448 S.C. 251, 933 S.E.2d 271 (2026). In this case Judge McDonald, Konduros and Vinson decided that the trial court did not err in allowing the DNA results into evidence through the independent source doctrine. The Court of Appeals also decided that the trial judge did not err in refusing to instruct the jury on the defense of alibi.

WHY CERTIORARI SHOULD BE DENIED

The Supreme Court reviews the Court of Appeals by writ of certiorari only where special reasons to justify the exercise of that power. *Douglas v. State*, 369 S.C. 213, 216, 631 S.E.2d 542, 544 (2000). Pursuant to Rule 242 of the South Carolina Appellant Court Rules, “a writ of certiorari is not a matter of right, but of sound judicial discretion and will be granted only where there are special and important reasons. The following, while neither controlling nor fully measuring the Supreme Court’s discretion or power to grant review in general, indicates the character of reasons which will be considered:

1. Where there are novel questions of law;
2. Where there is a dissent in the decision of the Court of Appeals;
3. Where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court;
4. Where substantial constitutional issues are directly involved;
5. Where a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court.”

Rule 242(b), SCACR.

In reviewing these criteria, none applies to the present case. The Court of Appeals properly and unanimously affirmed the decision of the trial judge. There have been cases regarding the independent source doctrine decided by the United States and South Carolina Supreme Courts. There have also been cases decided by the United States and South Carolina Supreme relating to inevitable discovery. These are not novel questions of law.

There was no dissent in this decision; this decision is not in conflict with prior decisions made by this Court. The constitutional issues were correctly considered. There was no federal

question conflicting with a decision made by the United States Supreme Court. The Court of Appeal's decision was lawful, so their opinion should not be subject to review.

STATEMENT OF FACTS

On December 17, 2009, during the early morning hours, Duwan Williams, Sheldon Livingston, Branton Booker and Donnovin Haynes were in their apartment in Lexington County, South Carolina. (R. p. 556 l. 23 - p. 557 l. 17). There was a knock on the door and when Mr. Booker answered he was immediately shot in the chest and right shoulder by either the Petitioner or his co-defendant Justin Hopkins. As they gained entry, they found Mr. Williams laying on the couch he was shot four times. Either the Petitioner or his co-defendant proceeded to the bedroom of Mr. Livingston where he was shot twelve times. After the shootings, both defendants ransacked the apartment in search of money, guns, and drugs. Mr. Haynes was in the master bedroom. He woke up due to the gunfire. (R. p. 562 l. 18-22). Mr. Haynes went into the bathroom and hid inside a closet. (T. p. 582 l. 12-13).

While hiding, the co-defendant kicked in the bedroom door and began looking for items. (R. p. 563 l. 19-22). The co-defendant kicked in the door of the bathroom and attempted to forcibly open the door of the closet where Mr. Haynes hid. (R. p. 566 l. 6-11). Mr. Haynes leaned up against the door fighting Petitioner's attempts to gain entry. Petitioner then yelled, "Here it is, I found it." (R. p. 567 l. 17-20). That is when both defendants left the apartment. Mr. Haynes waited a minute before exiting the closet. He saw Mr. Booker lying in the hallway under a mound of clothes. Mr. Haynes then crawled out of the bedroom window and ran upstairs to call 911. (R. p. 569 l. 18; p. 576 l. 16-19).

The first person to respond was Deputy Scott Purdy of the Lexington County Sheriff's Department. When Deputy Purdy arrived, he saw Mr. Haynes standing outside the apartment in

the December cold wearing only pajama pants with no shoes, and no shirt. (R. p. 452 l. 17 – p. 453 l. 1). Arriving next was Deputy Barber. When they got to the apartment, the door was locked on the inside by a deadbolt lock. To gain entry law enforcement officers had to kick in the door. As they walked inside they noticed blood all over the entryway. (R. p. 458 l. 11-13). They walked into the living room and saw Mr. Williams wrapped in blankets struggling to breathe after losing a large amount of blood. (R. p. 459 l. 12-15). The officers walked through the apartment and saw all the clothes from the closets dumped on the floor. They walked into a bedroom and saw a body near the bathroom, they then realized there was also a body under the clothes. (R. p. 460 l. 1-11).

When Detective John Donnelly also of the Lexington Sheriff's Department arrived, he saw that Mr. Williams was still alive, so he attempted to get a statement. Detective Donnelly asked Mr. Williams if he saw who did this, Mr. Williams could only answer that he was asleep. (R. p. 539 l. 17-19). Both Mr. Livingston and Mr. Booker were determined to be dead at the scene; Mr. Williams was later pronounced dead at the hospital.

After the incident law enforcement was informed by Dale Galloway that he saw a person fitting the co-defendant's description fleeing the incident location. Two other people, Christy and Hansen Meneses, informed law enforcement they saw someone fitting the co-defendant's description riding a bicycle in the area, and that person then got into a white dually pickup¹ and drove off. Dr. Sabah Kahdim a nearby resident, informed police that his bicycle was stolen. He later identified the bicycle being ridden by the Petitioner as his stolen bicycle (R. p. 766 l. 19-20).

With information gathered during their investigation Sheriff deputies went to a magistrate to secure a search warrant of the co-defendant's residence. While attempting to serve this warrant, Detective James Pratt was asked to do surveillance of Apartment 27-A at the Landmark

¹ A dually pickup is a pickup truck with four dual rear wheels.

Apartments, where the Petitioner resided. He sat in his unmarked car in the Apartment complex parking lot making sure the apartment was not disturbed and to observe who, if anyone, entered or left that apartment. (R. p. 791 l. 9-11). While Detective Pratt was observing the apartment, he saw the identical white dually pickup that was seen leaving the crime scene drive up to apartment 27-A. Detective Pratt then saw someone matching the description of the co-defendant get out of the truck and walk into apartment 27-A. (R. p. 796 l. 9-13). Detective Pratt notified his supervisor and, (R. p. 799 l. 21-25) he was told to follow that truck. He did and observed that the license plate lights were out. (R. p. 802 l. 18-20). Detective Pratt waited until they were far enough down the road so as not to tip off the Petitioner, and he pulled over the white pickup. (R. p. 800 l. 5-10).

After pulling over the truck, the Petitioner was found to be the driver. Captain Jessie Laintz arrived, and asked Petitioner if he was willing to speak with him. (R. p. 805 l. 24). Captain Liantz also asked the Petitioner if he was willing to consent to a search of his vehicle. (R. p. 810 l. 25 – p. 811 l. 3). Petitioner gave consent to search his vehicle. (R. p. 810 l. 19-20). Captain Liantz asked the Petitioner his whereabouts on December 17, 2009, the incident date. The Petitioner told him that he picked up the co-defendant from a Food Lion to take him to a construction site at McIntire Air Force Base. Because it rained, that job was cancelled so he returned the co-defendant back to the Food Lion and left him there. (R. p. 814 l. 8-19). Petitioner never acknowledged that he saw him again that day. (R. p. 814 l. 20-23). Petitioner told Captain Laintz that after leaving, he went to the Department of Motor Vehicles (DMV), then to BB&T bank, and then back to the DMV. (R. p. 815 l. 3-6). Deputy Pratt found paperwork from the DMV dated December 17, 2019, with the co-defendant's name on it. Petitioner told him he did not know how that got in his car. (R. p. 819 l. 18-21).

On December 23, 2017, the Petitioner voluntarily came into the Lexington County Sheriff's Department for an interview. He was not under arrest, so he was not read his *Miranda* rights. Petitioner spoke to Sergeant Anthony Creech and Detective Hendrix. Halfway through the interview Sergeant Creech asked Petitioner for a DNA swab. Sergeant Creech told the Petitioner, "Are you cool with that?" the Petitioner responded, "Why would you need DNA from me?" (court order R. p. 1560). Sergeant Creech told Petitioner that they were checking DNA found at the crime scene and the lack of his DNA would go to clearing his name. Petitioner then told him, "I'd rather be getting a lawyer involved in this because I don't know, need nothing fishy going on." (Court order R. p. 1560). During the interview they went back and forth further, then Petitioner voluntarily gave a DNA sample to Sergeant Creech through a buccal swab.

Petitioner was arrested later and charged with the offenses of three counts of murder and three counts of burglary in the first degree (Burglary 1st)(R. p. 1713). After his arrest, Petitioner's attorney requested an interview with law enforcement. Petitioner was read his *Miranda* rights even though his attorney was present. (R. p. 1210 l. 20-24). During this interview Petitioner provided the passcode to his cell phone. (R. p. 1213 l. 3-4). Petitioner also gave law enforcement officers permission to go through his phone. (R. p. 1213 l. 11-13). Law enforcement officers already had possession of the cell phone of Petitioner's co-defendant. (R. p. 1214 l. 6-8). During this interview Petitioner told officers that he took his co-defendant to an apartment to buy marijuana. He said his co-defendant went inside and that he parked in a parking lot near the apartment entrance. Petitioner told them that he sat in the truck checking his e-mail until he got a call from a friend. (R. p. 1225 1265 l. 1-5).

The day after his interview law enforcement did an extraction of the Petitioner's phone using a program called Cellebrite (R. p. 1246 l. 19-21). During this extraction law enforcement

discovered that on the incident date Petitioner's cell phone received a call at 10:35 am that no one answered and there was no activity on his phone until 11:10 am. The 911 call was made at 10:59am. This extraction revealed that there was no activity on Petitioner's phone on the incident date between 9:51am and 11:16am. (R. p. 1250 l. 2-7). During the interview Petitioner told them that he was reading a group e-mail from his bosses at Caddell Construction. (R. p. 1251 l. 8-10). Law enforcement checked all of the Petitioner's emails and there was one from Caddell Construction dated December 18, 2019, the day after the incident. The only other one was dated December 15, 2009, before the incident occurred. This e-mail pertained to building work for December 5, 6, and 7, 2019. Law enforcement also retrieved phone messages made between the Petitioner and his co-defendant from December 17, 2019. (R. p. 1289 l. 14-16) One message from Petitioner to his co-defendant was sent on December 17, 2019, at 1:03pm which stated, "make sure you clean the tools off." (R. p. 1301 l. 14-15). Another message sent one minute later at 1:04pm stated "erase these messages." (R. p. 1310 l. 5-8). Law enforcement believed that the statement "clean the tools off," referred to the guns used in the murder.

Law enforcement also found Facebook pictures of his co-defendant attempting to sell Glock 9mm, and a Taurus .38 caliber revolver. (R. p. 1315 l. 18-23; T. p. 1316 l. 5-10). Law enforcement retrieved 9mm casings as well as .38 caliber bullets from the crime scene. (R. p. 639 l. 15-16; p. 646 l. 1-10; p. 659 l. 24-25). The weapons used in this murder were never recovered by law enforcement. There was also no evidence that either of these guns were ever sold. (R. p. 1315 l. 24 – p. 1316 l. 2; p. 1316 l. 5-10; 1316 l. 11-15).

Prior to the beginning of trial, Petitioner made a motion to exclude the DNA evidence. Petitioner also requested that the trial court exclude statements made during the interview with law enforcement on December 23, 2019. A hearing was held in which Sergeant Creech testified.

Sergeant Creech stated that he was instructed by the Solicitor's office two weeks prior to trial to request a search warrant for a DNA swab from Petitioner. The Petitioner argued that both DNA samples taken, both the voluntary and the one via search warrant were collected in violation of the Petitioner's Fourth and Fifth Amendment rights. The Petitioner argued that the initial collection made during his interview was unlawful because he requested counsel and none was provided prior to the taking of the DNA sample. Petitioner also argued that the second DNA sample that was obtained through a search warrant was the "fruit of the poisonous tree." Petitioner argued that this sample was only obtained due to the State knowing that the first sample was obtained through unlawful means.

At the conclusion of this hearing the trial court issued a twelve-page written order. Within this order the trial court decided that the first DNA sample was taken in violation of the Petitioner's Fourth and Fifth Amendment rights. However, the trial court determined that the second DNA collection was lawful pursuant to independent source doctrine. So, the second DNA collection and its results were allowed into evidence.

During trial the Lexington County Sheriff's Department crime scene investigator Patrick Ward testified. Investigator Ward stated that he found 9mm cartridge cases in the living room and bedroom. (R. p. 631 l. 10-12; p. 639 l. 15-16; 664 l. 15-17). Investigator Ward also testified that nineteen fired shell casings were found at the scene. (R. p. 665 l. 9-11). However, there were no shell casings consistent with a .38 caliber. (R. p. 665 l. 9-11). This led Investigator Ward to believe that a revolver was also used to commit these murders. (R. p. 665 l. 14-15) Investigator Ward also processed the scene for fingerprints and touch DNA, which were sent to South Carolina Law Enforcement Division (SLED) for testing.

Agent James Green of SLED also testified. Agent Green was accepted as an expert in the field of firearms identification. (R. p. 1046 l. 6-10). Agent Green testified that the twelve or thirteen 9mm shell casings found at the scene were fired by the same gun. (R. p. 1049 l. 15-18; 1054 l. 5-7). Agent Green also testified that victim Williams had .9mm and .38 caliber bullets removed from his body, so he was definitely shot with two different guns. (R. p. 1065 l. 20 – p. 1095 l. 3). Agent Green stated that the .38 caliber bullets found at the crime scene had the same characteristics as the ones found inside Mr. Williams. (R. p. 1068 l. 1-6).

SLED Agent Samuel Allen Stewart also testified. Agent Stewart was accepted as an expert in DNA analysis. (R. p. 1127 l. 13-15). He testified that he received a known DNA sample from the Petitioner on September 26, 2022. (R. p. 1130 l. 19-23; p. 1131 l. 8). There was blood on the inside of the front door of the Apartment that was determined to belong to victim Branton Booker. It was approximately 12 octillion times more likely that Mr. Booker contributed to this profile than an unknown individual. (R. p. 1150 l. 9-17). There was also a swab taken from the interior deadbolt lock. (R. p. 1151 l. 14-16). Agent Stewart compared this known standard to both defendants. (R. p. 1153 l. 15-18). He also compared them to the known standards of each victim. (R. p. 1153 l. 19-22). Agent Stewart determined that it appeared to be a mixture of DNA. (R. p. 1153 l. 25). Agent Stewart testified that after testing the DNA from the deadbolt lock it was 510 million times more likely that victim Booker and the Petitioner and two unidentified unrelated individuals were the contributors than Mr. Booker and three unidentified unrelated individuals.

ARGUMENT

- 1. The trial court did not err in admitting the DNA evidence obtained by law enforcement from the Petitioner after being served a valid search warrant since it did not violate the independent source doctrine. The DNA also would have been inevitably discovered since touch DNA was found at the crime scene which would have forced law enforcement to obtain a search warrant for DNA samples from all individuals possibly involved in the commission of this crime.**

The Petitioner argues that the Court of Appeals erred in deciding that the DNA was admissible due to the independent source doctrine. The Respondent will argue that the Court of Appeals made the correct decision in affirming the decision of the trial judge. This is due to the independent source doctrine as well as the doctrine of inevitable discovery. Both were applied making the DNA sample provided by the Petitioner admissible.

The independent source doctrine allows trial courts to admit evidence obtained in an unlawful search if officers independently acquired it from a separate independent source. *Utah v. Strieff*, 579 U.S. 232, 238 (2016). In order to find a search warrant “genuinely independent” the unlawful search must not have affected (1) the officer’s “decision to seek the warrant;” or (2) the magistrate judge’s “decision to issue [it]” *U.S. v. Hill*, 487 U.S. 533, 542, 108 S.Ct. 2529 (1988) (4th Cir. 2015), *quoting*, *Murray v. United States*, 487 U.S. 533, 542, 108 S.Ct. 2529 (1988).

The warrant for the DNA was independent because the probable cause mentioned within the warrant was evidence known prior to law enforcement’s interview of the Petitioner. The prior DNA sample results did not influence the decision to issue the warrant. The DNA collected from this search warrant was sent to the South Carolina Law Enforcement Division and retested. These were the actual DNA results that was introduced and admitted into evidence during the Petitioner’s trial. This search warrant was totally independent to the prior collection and testing. Thereby it was allowed into evidence under the independent source doctrine.

The Court of Appeals also rightfully decided that this evidence was admissible pursuant to the doctrine of inevitable discovery. Even without an applicable exception to the search warrant requirement, evidence acquired as a result of a warrantless search or seizure may be admissible if the evidence would have inevitably been discovered by lawful means. *State v. Cardwell*, 425 S.C. 595, 600, 824 S.E.2d 451 (2019).

During his pre-trial testimony Sergeant Anthony Creech stated that in murder cases as this they would get DNA swabs from all significant parties they have had contact with. (R. p. 60 l. 11-13). Touch DNA swabs were taken from the shell casings, the sliding glass door, and the deadbolt door lock on the inside of the front door. Sergeant Creech testified that it is standard procedure to ensure that they get DNA samples from suspects to run against the DNA samples found. (R. p. 66 l. 3-8). Law enforcement obtained DNA samples from each victim who was murdered, and Donnovin Haynes who happened to survived. They also received a sample from Petitioner's co-defendant and once the Petitioner told them that he was at the scene but waiting in his truck, this would have made him involved. Law enforcement would have obtained a search warrant to obtain a sample to either rule him out as a suspect or make him the second suspect. This falls under the doctrine of inevitable discovery which constitutes an exception and allows the government to use information obtained from an otherwise unreasonable search if it can be established by a preponderance of the evidence that law enforcement would have "ultimately or inevitably" discovered the evidence by "lawful means." *United States v. Bullette*, 854 F.3d 261 (4th Cir. 2017), *quoting*, *Nix v. Williams*, 467 U.S. 431, 444, 104 S.Ct. 2501 (1984). "[I]f the government can prove that the evidence would have been obtained inevitably, and, therefore, would have been admitted regardless of any overreaching by the police, there is no rational basis to keep that evidence from

the jury in order to ensure the fairness of the trial proceedings.” *State v. Spears*, 393 S.C. 466, 487, 713 S.E.2d 324, 332 (Ct. App. 2011), *quoting*, *Nix*, 467 U.S. at 447, 104 S.Ct. at 2501.

Sargeant Creech testified that it is police procedure to obtain samples from all persons involved in the crime. During his initial questioning law enforcement requested Petitioner to voluntarily give a DNA sample. The trial judge ruled that this sample was not admissible. Law enforcement eventually obtained a sample through a valid search warrant. Law enforcement would have inevidently received a sample through a search warrant pursuant to department procedure. So this would have been the actions of law enforcement if the Petitioner has actually refused to give them the earlier sample. This evidence would have been discovered eventually; therefore, this falls under the doctrine of inevitable discovery. So the second sample was admissible.

The DNA evidence was rightfully allowed into evidence due to the independent source doctrine and also the doctrine of inevitable discovery. Since the evidence was lawfully allowed into evidence the decision of Court of Appeals should not be subject to review. This petition should be subject to dismissal.

CONCLUSION

For the above stated reasons, the Petitioner's convictions and sentences were lawfully upheld by the Court of Appeals. The decision of the Court of Appeals should not be reviewed this petition should be subject to dismissal.

Respectfully submitted,

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