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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County
Court of General Sessions
The Honorable DeAndrea G. Jefferson, Circuit Court Judge
Appellate Case Number 2026-002120

THE STATE,

Respondent-Petitioner,

vs.

NEVELLE JOSHUA EBERHART,

Petitioner-Respondent.

Court of Appeals Opinion No. 2026-6150 (S.C. Ct. App. filed July 1, 2026)

STATE'S RETURN TO PETITION FOR WRIT OF CERTIORARI

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STATEMENT OF THE ISSUE

Whether Eberhart was prejudiced by the introduction of ankle monitor GPS records which showed his physical location at the scene of the crime where his guilt was conclusively proven by other evidence, including the victim's debit card (which was found in his pants pocket) and a surveillance video of the robbery showing his moped's license plate.

STATEMENT OF THE CASE

A Richland County jury convicted Petitioner-Respondent Nevelle Eberhart of armed robbery and possession of a weapon during a violent crime after a jury trial before the Honorable DeAndrea G. Benjamin on February 6–8, 2023. Eberhart was sentenced to 15 years' incarceration. On appeal, Eberhart argued the trial court erroneously denied his motion to suppress GPS records generated by an ankle monitor Eberhart was wearing when he committed the robbery. Two judges on the panel agreed, holding police were required to obtain a search warrant before requesting the bondsman's GPS records. The court affirmed on harmless error grounds. Judge McDonald concurred in result only, opining Eberhart failed to demonstrate a reasonable expectation of privacy in the bondsman's GPS data. The State petitioned for rehearing, suggesting rehearing en banc. The petition was denied. Eberhart filed a petition for writ of certiorari on September 25, 2026. The State filed a cross-petition for writ of certiorari on October 5. This return to Eberhart's petition follows.

WHY THE PETITION SHOULD BE DENIED

Eberhart's petition seeks review of a run-of-the-mill harmless error ruling. This Court does not sit as a court of ordinary error correction, but instead will only grant certiorari when there are "special and important" reasons. Rule 242, SCACR. The following, while neither controlling nor fully measuring this Court's discretion or power to grant review, indicate 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.

None of these factors are presented by Eberhart's petition. Eberhart does not raise any substantial issues of law which the court of appeals misapprehended; he merely disagrees with the court of appeals' harmless error analysis. His petition should be denied.

ARGUMENT

The court of appeals correctly found Eberhart failed to show prejudice from the introduction of GPS records showing the physical location of the ankle monitor he was required to wear while out on bond.

The court of appeals correctly held Eberhart's guilt was "conclusively proven" even without the bondsman's GPS records which placed him at the scene of the robbery. See State v. Heyward, 441 S.C. 484, 506, 895 S.E.2d 658, 670 (2023) (discussing harmless error standard for constitutional errors). In addition to the GPS records, the State produced a bank surveillance video which captured Eberhart's girlfriend's moped at the scene of the crime. R.182–85. Later on the night of the incident, Eberhart's girlfriend made a false report that the moped had been stolen. R.177–78. Police later went to the home and found the moped there, along with Eberhart. When Eberhart was arrested, police found the victim's debit card in Eberhart's pocket. R.209–11. The victim identified Eberhart at trial as the person who robbed him. In light of this evidence, the court of appeals correctly found any error in the admission of the GPS records was harmless. Certiorari should be denied.

CONCLUSION

For the foregoing reasons, Eberhart's petition for writ of certiorari should be denied.

Respectfully submitted,

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