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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to Berkeley County
Honorable Bentley Price, Circuit Court Judge
Appellate Case No. 2021-000089

JOSEPH T. ROWLAND,

Respondent,

vs.

STATE OF SOUTH CAROLINA,

Petitioner.

RESPONDENT'S RETURN TO PETITION FOR REHEARING

On September 16, 2026, this Court issued an opinion reversing the circuit court's decision to grant Respondent's application for post-conviction relief ("PCR"). *Rowland v. State*, Op. No. 2026-UP-436 (S.C. Ct. App. filed Sep. 16, 2026). Respondent subsequently filed a petition for rehearing. Petitioner now offers this Return to Respondent's petition.

1. This Court correctly held that the affidavit established probable cause

Respondent argues the search warrant affidavit in this case was insufficient to establish probable cause; therefore, Respondent claims Trial Counsel was ineffective for failing to failing to more thoroughly argue the motion to suppress. This Court, however, held that the affidavit established probable cause such that there was no "reasonable probability that . . . the result of the suppression hearing would have been different" had Trial Counsel argued additional grounds in his motion to suppress. The Court's determination of this issue was correct.

As the Court pointed out, the affidavit established that police had received several

complaints of drug dealing activity occurring at Respondent's address over the preceding six months, had surveilled the residence and witnessed what appeared to be a hand-to-hand drug transaction between Respondent and the occupant of a vehicle, and had subsequently followed and stopped the vehicle and obtained drugs and a written statement from the driver confirming that he received the drugs from Respondent.

Respondent now argues that these factors do not amount to probable cause because "anonymous undated complaints alone do not provide probable cause," there was "no testimony . . . that the officers observed narcotics or an exchange of money" during the hand-to-hand transaction between Rowland and the driver of the car, and the affidavit contained no information about the veracity or reliability of the driver of the vehicle.

The Court's opinion considered, and correctly rejected, these arguments. The reliability of the anonymous tips was corroborated by the officers' subsequent investigation and surveillance; this was not a case where the magistrate's probable cause determination relied on anonymous tips alone. Similarly, the statement given by the driver of the car admitting to buying drugs from Respondent was corroborated by officers' prior observation of the hand-to-hand transaction in front of Respondent's residence. "It is enough, for purposes of assessing probable cause, that 'corroboration through other sources of information reduced the chances of a reckless or prevaricating tale,' thus providing 'a substantial basis for crediting the hearsay.'" *Illinois v. Gates*, 462 U.S. 213, 244–45 (1983) (quoting *Jones v. United States*, 362 U.S. 257, 269–71 (1960)).

2. This Court correctly found no prejudice from failure to renew the objection

Respondent's next argument is that Trial Counsel was ineffective for failing to renew his pretrial objection to the sufficiency of the affidavit and thereby to preserve the suppression issue for appellate review. This argument is also meritless, for the same reasons. Where the affidavit

was sufficient, there can be no possible prejudice from failure to properly preserve a challenge to the sufficiency of the affidavit. Accordingly, this Court correctly held that Respondent “failed to show there is a reasonable probability the outcome of the proceeding would have been different because his claim fails on the merits.”

3. This Court correctly found no prejudice from failure to call Father as a witness

Next, Respondent argues the Court erred in reversing the PCR court’s determination that Trial Counsel was ineffective for failing to call Respondent’s father (“Father”) as a witness to dispute Respondent’s ownership of the handgun. Respondent argues that “the determination of whether Petitioner was in constructive possession of the gun is a factual determination”; therefore, Respondent claims, this Court should have deferred to the PCR court’s factual findings on this issue.

Respondent appears to have missed the point of this Court’s holding on this issue. This Court pointed out that Father merely testified “that he owned the handgun”; however, the mere fact that Father claimed *ownership* of the handgun has no bearing on whether Respondent *possessed* the handgun. As the Court noted, the handgun was found inside Respondent’s bedroom along with a number of Respondent’s personal possessions and documents. Therefore, regardless of who “owned” the handgun, it was clear that Respondent had at least constructive possession of the handgun at the time of the search, and there was no reasonable probability that Father’s testimony would have changed the jury’s mind concerning Respondent’s possession of the handgun. Accordingly, this Court correctly held the PCR court erred in finding Respondent was prejudiced by Trial Counsel’s failure to present Father’s testimony.

4. This Court correctly found Brother’s claimed possession of the drugs was not “after-discovered evidence”

Finally, Respondent argues this Court erred in finding the testimony of Respondent's brother ("Brother"), in which Brother claimed ownership of the drugs found during the search, did not constitute after-discovered evidence. Respondent acknowledges that Trial Counsel "was aware of the potential testimony prior to trial"; however, he claims the evidence should nevertheless be considered "after-discovered" because Trial Counsel "was not certain [Brother] would admit to ownership of the drugs at the time of trial."

This argument is meritless; the test for "after-discovered evidence" turns on whether the evidence in question was known, or reasonably should have been known, prior to trial. Where the evidence was, concededly, *already known* by the defense prior to trial, the defense cannot strategically choose not to call a reluctant witness to present that evidence at trial and then claim "after-discovered evidence" when it later develops that the witness is willing to testify. This Court correctly determined that the substance of Brother's testimony was not "after-discovered evidence" where the PCR testimony of Respondent, Brother, and Trial Counsel indicated that this information was known to the defense prior to trial.

Respondent also complains that this Court failed to defer to the PCR court's finding that Brother's testimony was credible. However, this Court noted that Brother *admitted* he spoke with Trial Counsel before Respondent's trial about claiming ownership of the drugs, and this testimony was corroborated by Trial Counsel. Accordingly, this Court found Brother's testimony that he was unwilling to come forward and claim ownership of the drugs prior to trial did not support granting PCR on this issue. This Court's determination of this issue was correct.

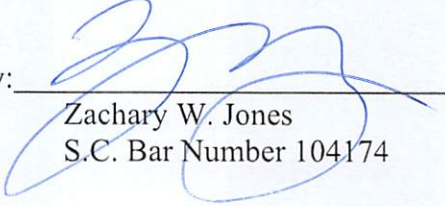
For these reasons, the State respectfully asks that this Court deny the petition for rehearing.

Respectfully submitted,

ALAN WILSON
Attorney General

ZACHARY W. JONES
Assistant Attorney General

By: _____


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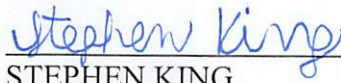
Petitioner.

PROOF OF SERVICE

I, Stephen King, certify I have served the within Respondent's Return to Petition for Rehearing on Petitioner by sending an electronic copy via email to the address listed in AIS for the following individual:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
1330 Lady St., Ste.401
Columbia, SC 29201

I further certify all parties required by Rule to be served have been served.
This 19th day of October, 2026.



STEPHEN KING
Legal Assistant
Office of the Attorney General