RECEIVED

Nov 16 2026

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

On Petition for Writ of Certiorari to the Court of Appeals
Appeal from Lexington County
Honorable Thomas W. Cooper, Circuit Court Judge

State of South Carolina, Petitioner,

vs.

Steven Daniel Brown, Respondent.

Opinion No. 2026-UP-426 (S.C. Ct. App. Filed August 26, 2026)

PETITION FOR WRIT OF CERTIORARI

ALAN WILSON
Attorney General

AMBREE M. MULLER
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803)- 734-3747

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

205 E. Main St.
Lexington, SC 29072
(803) 785-8352

ATTORNEYS FOR PETITIONER

TABLE OF CONTENTS

CERTIFICATION OF COUNSEL 1

STATEMENT OF ISSUE ON CERTIORARI 2

STATEMENT OF THE CASE 3

ARGUMENT 6

I. The Court of Appeals erred in holding the trial court erred by refusing to suppress drug evidence found 6

CONCLUSION 13

CERTIFICATION OF COUNSEL

Counsel for Petitioner hereby certifies that a Petition for Rehearing was filed in the South Carolina Court of Appeals on September 10, 2026. The Petition for Rehearing was denied by Order filed October 7, 2026.

STATEMENT OF ISSUE ON CERTIORARI

I.

Whether the Court of Appeals erred in holding the trial court erred by refusing to suppress the drug evidence found.

STATEMENT OF THE CASE

Procedural History

On October 12, 2020, a Lexington County Grand Jury indicted Respondent, Steven Brown for trafficking methamphetamine, 400 grams or more. On August 7-10, 2023, Respondent proceeded to trial before the Honorable Thomas W. Cooper. The jury found Respondent guilty as indicted. The trial court sentenced Respondent to twenty-five years' imprisonment.

On appeal, Respondent argued four different issues: (1) The trial court erred by refusing to suppress the drug evidence when the continued detention of Respondent exceeded the scope of the traffic stop, (2) The trial court erred by refusing to grant a mistrial when a State's witness referenced inadmissible propensity evidence, the state presented inadmissible drug evidence, and the trial court excused a juror for writing "guilty" on their notepad during the second day of trial, (3) The trial court erred in finding the State provided a sufficient chain of custody to admit a box containing drug evidence, and (4) The trial court erred by refusing to grant a new trial where the cumulative effect of the unfair prejudice created by all errors that occurred deprived Respondent of his right to a fair trial.

The Court of Appeals issued an unpublished opinion reversing and remanding Respondent's conviction for trafficking methamphetamine, holding the trial court erred by refusing to suppress drug evidence because the State failed to sufficiently establish a chain of custody. The Court of Appeals declined to address the remaining issues on appeal stating that their decision on this ground was dispositive.

Thereafter the State filed a petition for rehearing with the Court of Appeals on September 10, 2026. The petition for rehearing was denied on October 7, 2026. This Petition for a Writ of Certiorari now follows on behalf of the State.

Factual Background

John Gietz, an investigator with the Lexington County Sheriff's Department, opened an investigation on Appellant after receiving multiple tips that Appellant was trafficking methamphetamine from Georgia to South Carolina. (R. 180). Gietz explained that he looked up Appellant's vehicles in the DMV database and found a white F-350. (R. 180). Gietz then placed the license plate into DEASIL[1]. (R. 182).

On June 29, 2020, Gietz received a hit for Appellant's license plate at approximately eight in the morning on I-20 going westbound just on the other side of Augusta, Georgia. (R. 184). Gietz notified the team that had been investigating Appellant and reached out to the South Carolina Highway Patrol to get in contact with their interdiction team to conduct a whisper stop[2]. (R. 187). Officers were placed along I-20 on the eastbound side where Appellant would be returning. (R. 187-188).

Trooper Gregory Shropshire from South Carolina Highway Patrol was positioned on mile marker 39 when he witnessed Appellant commit two traffic violations: following too closely and failure to maintain lane. (R. 232-235). Shropshire conducted a traffic stop and identified the driver as Appellant. (R. 236). Shropshire testified that he had prior knowledge there was a possibility of illegal narcotics trafficking going on, but that he needed to develop reasonable suspicion before he could search the vehicle. (R. 237). Shropshire testified that during the stop, he observed Appellant with extremely nervous behavior, he had inconsistencies in his statements and was evasive with

[1] DEASIL is a license plate reader system run by the DEA that will track and monitor license plates as they pass a reader.

[2] A whisper stop is where officers pretend the traffic stop is a normal stop when in reality they are given information about who a person is, where they are coming from, and what they are allegedly supposed to have inside their vehicle. (R. 182, 227).

answers. (R. 237-245). Shropshire testified that he then had reasonable suspicion and asked Appellant for consent to search his vehicle. (R. 246).

When Appellant refused consent, Jacob Atwood, a K-9 officer with the South Carolina Highway Patrol, then deployed the K-9 to do a sniff test on the outskirts of the vehicle and he ultimately indicated that there were drugs in the vehicle. (R. 283). Once the dog gave a positive indication that there were drugs in the vehicle, it was searched and approximately 3,200 grams of methamphetamine was found in the rear passenger compartment. (R. 197, 249).

ARGUMENT

The Court of Appeals reversed and remanded Respondent's conviction for trafficking methamphetamine finding that the trial court erred by refusing to suppress drug evidence because the State failed to sufficiently establish a chain of custody. The State respectfully disagrees with the conclusion of the Court of Appeals and asks this Court to grant the State's Petition for a Writ of Certiorari.

I. The Court of Appeals erred in holding the trial court erred in refusing to suppress the drug evidence found.

On appeal Respondent argued that the trial judge erred in finding the State provided a sufficient chain of custody to admit a box containing drug evidence. Specifically, Respondent argued that State's Exhibit 7 passed through the hands of three people in this case: Investigator Gietz; evidence custodian Candy Kyzer; and chemist Margaret Walker, and the chain of custody was insufficient because Kyzer did not testify. (Final Brief of Appellant pg. 31). Respondent argued that this was particularly concerning because no witness testified at trial about how item 1.2 ended up inside State's Exhibit 7. (Initial Brief of Appellant pg. 31). However, Respondent's chain of custody argument did not deal with item 1.2. During Margaret Walker's testimony, Appellant made an objection when the State attempted to move State's Exhibit 7, the box containing the drugs, into evidence. (R. 399-400). Trial Counsel argued that a witness could testify as to when and where Gietz placed the box in evidence and how it got to Walker. (R. 400). He further argued that there had been no testimony to trace the box from the date and time the box was allegedly found on the road until it was placed into evidence and how it was maintained. (R. 400-401).

"'To warrant reversal based on the admission or exclusion of evidence, the [A]ppellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is a reasonable

probability the jury's verdict was influenced by the challenged evidence or lack thereof."' State v. Singleton, 395 S.C. 6, 13, 716 S.E.2d 332, 336 (Ct. App. 2011) (quoting Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C. 19, 26, 609 S.E.2d 506, 509 (2005)). A party offering into evidence fungible items such as drugs or blood samples must establish a complete chain of custody as far as practicable. State v. Sweet, 374 S.C. 1, 647 S.E.2d 202 (2007). "Where an analyzed substance that has passed through several hands, the identity of individuals who acquired the evidence and what was done with the evidence between the taking and the analysis must not be left to conjecture." Id. at 6, 647 S.E.2d 202, 205 (2007). Accordingly, if the identity of each person handling the evidence is established, and the manner of handling is reasonably demonstrated, no abuse of discretion by the trial court is shown in admitting the evidence absent proof of tampering, bad faith, or ill motive. State v. Taylor, 360 S.C. 18, 25, 598 S.E.2d 735, 738 (Ct. App. 2004).

"Testimony from each custodian of fungible evidence, however, is not a prerequisite to establishing a chain of custody sufficient for admissibility." State v. Pulley, 423 S.C. 371, 377, 815 S.E.2d 461, 464 (2018) (Citing State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205 (2007)). "Proof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete." State v. Carter, 344 S.C. 419, 424, 544 S.E.2d 835, 837 (2001). "[W]e have never held the chain of custody rule requires every person associated with the procedure be available to testify or identified personally, depending on the facts of the case." South Carolina Dep't of Soc. Servs. v. Cochran, 364 S.C. 621, 629, 614 S.E.2d 642, 646 (2005). Cochran further held that the chain of custody was sufficient even though the courier who transported the samples from the collection site to the testing facility was never identified, where the samples arrived at the facility sealed and intact. Id.

"It is unnecessary.... [t]hat the police account for 'every hand-to-hand- transfer' of the item; it is sufficient if the evidence demonstrates a reasonable assurance of the condition of the item remains the same from the time it was obtained until its introduction at trial." State v. Hatcher, 392 S.C.86, 95, 708 S.E.2d 750, 754 (2011). "To expect the [prosecuting authority] to produce every possible individual who may have had fleeting contact with the evidence would cause unnecessary logistical problems concerning chain of custody." Id. (citing to Commonwealth v. Herman, 288 Pa. Super. 219, 431 A.2d 1016, 1019 (1981) (holding the absence of testimony from a crime lab custodian who merely logged in the seized marijuana was not fatal to the chain of custody where the officers who seized the drugs and the chemist who tested them did testify at trial)). "[I]f the identity of each person handling the evidence is established, and the manner of handling is reasonably demonstrated, no abuse of discretion by the trial court is shown in admitting the evidence absent proof of tampering, bad faith, or ill motive." State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205-206 (2007). Furthermore, "where there is a weak link in the chain of custody, as opposed to a missing link, the question is only one of credibility and not admissibility." State v. Carter, 344 S.C. 419, 424, 544 S.E.2d 835, 837 (2001).

At trial, Respondent argued that because Kyzer did not testify that the chain of custody wasn't sufficient. Investigator Gietz testified that he packaged the seized evidence in a box, sealed it and initialed anywhere he could find a gap. (R. 198). He then testified that he submitted it to the Lexington County evidence center so that they could conduct testing. (R. 198-199). Walker then testified that she collected the evidence from the evidence room where only she and the evidence custodian Candy Kyzer had access. (R. 394). She then testified that the seal was intact, and the evidence did not appear to be tampered with. (R. 396-400). Based on that testimony, every individual who handled the methamphetamine was identified and a full chain of custody was

established as far as practicable. See State v. Trapp, 420 S.C. 217, 231, 801 S.E.2d 742, 749 (Ct. App. 2017). This is sufficient to show that Gietz sealed the evidence, and it was not tampered with until Walker opened up to test the contents.

In Respondent's brief to the Court of Appeals, Respondent attempted to argue that the addition of item 1.2 in the evidence box constituted proof of tampering. In Trial Counsel's argument of the mistrial for item 1.2, Trial Counsel references a search warrant that allowed officers to go into Respondent's house and seize other items. (R. 432). The State further explained that after Respondent's arrest, a search warrant was granted for Respondent's home and that is where item 1.2 came from, and they packaged the evidence together because the case was originally going to be tried together and it would have been difficult to keep a chain of custody without packaging them together. (R. 432-433). This explains that item 1.2 was placed in the box before it was sealed by Gietz and disproves that the box was tampered with and therefore still admissible. See Carter, 344 S.C. at 425, 544 S.E.2d at 835 (rejecting a challenge to a chain of custody based on the fact a saliva sample sealed inside an evidence kit with blood samples was inexplicably missing when the kit was unsealed at the laboratory because the evidence related to the missing saliva sample "simply contradict[ed] the State's evidence negating tampering, thereby created a factual issue" for the jury to resolve but did not render the blood samples inadmissible). See also State v. Pope, 410 S.C. 214, 228-229, 763 S.E.2d 814, 822 (Ct. App. 2014) (concluding a complete chain of custody was established for the drugs based on the testimony presented even though the chain of custody affidavit prepared by one of the officers in the chain contained inaccurate information concerning where the drugs were seized from and who actually seized them). Even though Kyzer did not testify, she was identified as being in the chain and there was testimony that there was no tampering and the evidence remained sealed.

In its opinion the Court of Appeals stated: "The inclusion of the Ziploc bag in State's Exhibit 7 without explanation causes a break in the chain of custody because the manner of handling has not been reasonably demonstrated....without testimony accounting for the addition of the Ziploc bag to State's Exhibit 7 prior to Geitz sealing of the box, the reason for its presence is left to conjecture." This court distinguished this case from State v. Carter, 344 S.C. 419, 554 S.E.2d 835 (2001), stating "Unlike the missing sample at issue in Carter, Brown could not have used this evidence to 'contradict [] the State's evidence negating tampering' without acquiescing to its introduction and thus prejudicing his own defense." However, unlike in Carter, where there was a totally unexplained gap because three tubes went in and only two tubes were in the box when it was opened, we know exactly what happened to the drugs in this case. The State intentionally did not present the evidence of the search of the house in front of the jury for fear of prejudice to Appellant. This was not at all an incomplete chain, but details were intentionally omitted and the chain was established by other evidence.

"It is unnecessary.... [t]hat the police account for 'every hand-to-hand transfer' of the item; it is sufficient if the evidence demonstrates a reasonable assurance of the condition of the item remains the same from the time it was obtained until its introduction at trial." State v. Hatcher, 392 S.C.86, 95, 708 S.E.2d 750, 754 (2011). "To expect the [prosecuting authority] to produce every possible individual who may have had fleeting contact with the evidence would cause unnecessary logistical problems concerning chain of custody." Id. (citing to Commonwealth v. Herman, 288 Pa. Super. 219, 431 A.2d 1016, 1019 (1981) (holding the absence of testimony from a crime lab custodian who merely logged in the seized marijuana was not fatal to the chain of custody where the officers who seized the drugs and the chemist who tested them did testify at trial)). "[I]f they identify of each person handling the evidence is established, and the manner of handling is

reasonably demonstrated, no abuse of discretion by the trial court is shown in admitting the evidence absent proof of tampering, bad faith, or ill motive." State v. Sweet, 374 S.C. 1, 6, 647 S.E.2d 202, 205-206 (2007). Furthermore, "where there is a weak link in the chain of custody, as opposed to a missing link, the question is only one of credibility and not admissibility." State v. Carter, 344 S.C. 419, 424, 544 S.E.2d 835, 837 (2001). "The ultimate goal of chain of custody requirements is simply to ensure that the item is what it is purported to be." Hatcher at 96, 708 S.E.2d at 755.

There were text messages establishing that approximately 7 pounds of methamphetamine were going to be trafficked. When Geitz began speaking to Respondent, he immediately stated that "it's on the floorboard." Approximately 7 pounds of methamphetamine, based on field weight, was seized by Geitz. He testified that he seized the drugs to submit it to the Lexington County Evidence Center. He did not say he testified to sealing the box on scene where the drugs were taken from the vehicle. There is nothing in his testimony that indicates that the evidence was not secured by him or that the evidence was handled by someone else. There are simply omitted details about him securing it in his care while police went to Respondent's home to execute a search warrant. Walker testified that she received the box from the evidence custodian and all the seals made by Geitz were still secured and signed by him. Walker testified that the box had not been tampered with. She further testified that the box contained three packages equaling approximately 6.5 pounds of methamphetamine along with an additional separate bag that contained 5.2 grams. Every person in the chain is identified; the box was sealed and had not been tampered with. The evidence is exactly what it was purported to be: approximately 7 pounds of methamphetamine. The evidence and testimony presented reasonably identified who was in possession of the evidence and what was done with it between its seizure and analysis. Geitz could not testify to more details

without alluding to other criminal activity by Respondent. There is no reasonable reason to believe that the evidence had been tampered with. Therefore, the trial judge did not abuse his discretion in admitting evidence because a sufficient chain of custody was established.

CONCLUSION

For all of the foregoing reasons, the State respectfully requests this Court to grant this Petition for a Writ of Certiorari.

Respectfully submitted,

ALAN WILSON
Attorney General

AMBREE M. MULLER
Assistant Attorney General

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

205 E. Main St.
Lexington, SC 29072
(803) 785-8352

BY: _____
Ambree M. Muller
S.C. Bar No. 104213
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR PETITIONER

November 16, 2026