

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Aiken County
William Jeffrey Young, Circuit Court Judge

RECEIVED

JAN 27 2014

S.C. Supreme Court

JAMES PRATHER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2013-001053

PETITION FOR WRIT OF CERTIORARI

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ISSUE PRESENTED

Did the PCR court apply an incorrect legal standard to Petitioner's claims of ineffective assistance of appellate counsel, where counsel failed to file a merits brief challenging the trial judge's error in failing to conduct a hearing on Petitioner's motion to suppress outside the presence of the jury, which allowed the solicitor to present irrelevant and unfairly prejudicial evidence of drugs and weapons for which Petitioner had not been charged?

STATEMENT

During its February 2006 term, an Aiken County grand jury indicted Petitioner for possession with intent to distribute cocaine within proximity of a park (2006 – GS – 02 – 256) and trafficking cocaine (2006 – GS – 02 – 257). App. 386 – 387; App. 389 – 390. The state called the case to trial before the Honorable Doyet A. Early, III, and a jury on May 24, 2006. DeGrant Gibbons represented the state, and Wallis Alves represented Petitioner. App. 1. The jury found Petitioner guilty as charged. App. 170, lines 8 – 19. Petitioner filed a timely motion for new trial. A hearing on the motion was conducted on June 26, 2006. App. 181. Judge Early denied the motion. App. 200, lines 14 – 16. Petitioner filed a timely notice of appeal. LaNelle Durant filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967) on June 26, 2007. App. 203 – 213. Subsequently, Petitioner filed a pro se brief. App. 214 – 240. On October 9, 2008, the Court of Appeals dismissed Petitioner's appeal. State v. Prather, 2008 – UP – 554 (S.C. Ct. App. filed Oct. 9, 2008); App. 241 – 242. Petitioner filed a pro se petition for rehearing. App. 243 – 255. On December 19, 2008, the Court of Appeals denied the petition for rehearing. App. 256 – 257. Remittitur was issued on January 26, 2009. App. 258.

Petitioner filed an application for post-conviction relief (PCR) on June 19, 2009. App. 259 – 266. The matter proceeded to an evidentiary hearing on July 15, 2010 before the Honorable W. Jeffrey Young. Aaron G. Walsh represented Petitioner, and Mary S. Williams represented the state. App. 273. Although the judge initially left the record open for the submission of additional evidence, the judge ultimately ordered the parties to submit briefs on their arguments because no further testimony was necessary. App. 322, lines 14 – 23; App. 326, lines 20 – 25; App. 328, line 21 – App. 329, line 25; App. 346; App. 354. By order filed on

January 9, 2012, Judge Young denied Petitioner relief from his convictions and sentences. App. 359 – 363.

Petitioner filed a pro se motion to alter or amend pursuant to Rule 59(e), SCRCP. Additionally, Petitioner's counsel filed the same Rule 59(e) motion, but did not sign it as Petitioner's counsel. App. 364 – 365. The state responded by letter on February 2, 2012 that because the pleading was not signed by an attorney, the pleading violated Rule 11, SCRCP and therefore, should not be considered by the court. App. 366. On February 22, 2012, the state filed a formal response to the motion. App. 367 – 371. On September 20, 2012, Judge Young presided over a hearing on the motion. App. 372. By order filed on April 18, 2013, Judge Young denied the motion to alter or amend. Specifically, Judge Young found the motion was untimely; however, he also found the order contained the required findings of facts and conclusions of law. App. 383 – 385.

This petition for writ of certiorari follows.

ARGUMENT

The PCR court applied an incorrect legal standard to Petitioner's claims of ineffective assistance of appellate counsel, where counsel failed to file a merits brief challenging the trial judge's error in failing to conduct a hearing on Petitioner's motion to suppress outside the presence of the jury, which allowed the solicitor to present irrelevant and unfairly prejudicial evidence of drugs and weapons for which Petitioner had not been charged.

Relevant facts

Facts produced at trial

Prior to trial, the solicitor informed the judge that Petitioner was arrested in a house where several other people were. According to the solicitor, some drugs were found on Petitioner's person, some were found on the floor, some were found on a window sill, and some were found in another person's bag. Although the solicitor had originally decided to charge Petitioner with all of the drugs based upon the theory of constructive possession, the solicitor decided to try Petitioner only on the drugs that were found allegedly in his pocket; therefore, the matter was proceeding only on the cocaine charges. App. 15, lines 4 – 13.

Petitioner moved to suppress all evidence obtained pursuant to a search warrant based upon a lack of probable cause. App. 18, lines 13 – 20. Additionally, Petitioner moved to suppress all evidence obtained pursuant to a search of Petitioner's person where the only basis for the search was that he was one of five people found inside the house. App. 18, lines 19 – 25. The trial judge ruled that the search warrant was based on probable cause; however, he expressed some concerns regarding the search of Petitioner's person. He explained that he wanted "to see how the facts develop[ed] on that before [making] a ruling." App. 26, lines 1 – 24. Trial counsel requested a ruling on the motion before proceeding with the trial. App. 27, lines 14 – 20.

Additionally, trial counsel moved to suppress any reference to a pistol that was allegedly found on or near Petitioner. App. 27, line 23 – App. 28, line 6. The trial judge overruled the objection. App. 28, lines 13 – 15.

On February 17, 2005, the Aiken County Sheriff's Office executed a search warrant on a trailer. App. 43, lines 21 – App. 44, line 1. After the SWAT team entered the residence, the officers entered to execute the search warrant. App. 49, lines 1 – 5. Michael Jones, the first officer to enter the residence after the SWAT team, claimed he immediately smelled the odor of marijuana, observed marijuana in the kitchen and on the floor, and observed marijuana and crack cocaine on the window sill. App. 49, line 17 – App. 50, line; App. 50, lines 21 – 24.¹ Additionally, Jones claimed he saw a twelve-gauge shotgun near the entrance of the trailer and a handgun on the kitchen counter. App. 51, lines 3 – 9. None of these items was located on Petitioner's person or within his reach. App. 50, line 25 – App. 51, line 2; App. 51, lines 10 – 12. Petitioner was not charged with any crimes connected to these items.²

Jones then described his search of Petitioner's person. Trial counsel renewed her previously explained objection. App. 51, lines 17 – 25. The trial judge overruled the objection. App. 52, line 1. When Jones began to explain that he found a bag of marijuana in the hood area of Petitioner's sweatshirt, trial counsel objected on the basis of relevance, which was overruled. Additionally, the attorneys approached the bench concerning the objections. App. 52, lines 2 – 21. Jones then claimed he found a bag of marijuana on Petitioner's person. App. 52, line 23 –

¹ Jones claimed that when police officers execute a search warrant, they detain everyone and "conduct pat-downs of all of the individuals inside to make sure that nobody has weapons." App. 47, lines 19-25. He explained this is for "officer safety" and is part of the "training and procedure" of police officers. App. 48, lines 1-17.

² Petitioner and at least five other individuals were in the residence when the police arrived. App. 50, lines 3 – 8.

App. 53, line 1. Jones also described finding a plastic bag containing cocaine in Petitioner's jacket pocket.³ App. 53, lines 2 – 19. Trial counsel renewed her objection to this evidence, and the trial judge overruled the objection. App. 53, lines 20 – 22. Later, when Jones described his discovery of a handgun underneath where Petitioner was lying, trial counsel objected. The trial judge overruled the objection and stated he would allow trial counsel to present the full objection outside the jury. App. 56, line 21 – App. 57, line 7; App. 58, lines 8 – 11.

Gregory Savell, an employee of the Aiken County Sheriff's Office, also testified to finding marijuana on the floor, a shotgun in the corner of the residence, and a handgun on the kitchen counter top. App. 77, lines 4 – 13; App. 79, lines 7 – 19. Additionally, he was notified by Jones of his findings of marijuana and cocaine allegedly from his search of Petitioner. App. 78, lines 3 – 14. Savell also testified that he saw a black handgun around Petitioner's waistband when Petitioner was rolled on his side. App. 80, line 23 – App. 81, line 5.

At the conclusion of Savell's testimony, the court allowed trial counsel to place her objections on the record. App. 87, lines 22 – 25. Trial counsel explained that she had objected to the solicitor eliciting testimony regarding marijuana found on Petitioner and in the house. She further explained that based upon her conferences with the prosecutor, it was her understanding that the prosecutor was not going to present any evidence regarding any other drugs alleged to have been found in the house or on Petitioner. Trial counsel explained that Petitioner was charged with possession of marijuana related to the marijuana found on his person during this search; however, the prosecutor had decided to call the cases separately. As a result, it was trial counsel's understanding that the prosecutor was not going to introduce evidence of any other

³ Petitioner's trial concerned the cocaine allegedly found in his pocket.

drugs except cocaine. Trial counsel argued the evidence was unfairly prejudicial and irrelevant. App. 88, line 1 – app. 89, line 12.

The prosecutor admitted that he had discussed with trial counsel that he was pursuing only the cocaine charges and would not introduce evidence of the other drugs and the weapons. The solicitor claimed he introduced evidence of the other drugs because Petitioner had made a motion to suppress the cocaine, arguing it was the product of an illegal search. The solicitor explained the drugs and weapons in plain view were relevant to the issue of the search. He further argued that after the police found marijuana on Petitioner's person, the continued search was altered from one within the ambit of the search warrant to one that was incident to arrest for the marijuana. App. 89, lines 14 – 25.

The trial judge ruled as follows:

Well, I am aware of the motion that was made regarding the suppression to suppress [sic] the evidence based on the search warrant and one of the case was given to me was in Michigan v. Summers which is a United States Supreme Court case and I assume you had read that case and you were trying to show that the legitimate law enforcement interest in preventing flight and losing incriminating evidence and also minimizing the risk of harm to the officers. So, you had to show a totality of the circumstances which would justify the pat-down and or the seizure of the 26.6 g of cocaine.

So, once that became an issue as far as the totality of the circumstances I find it not to be prejudicial. I find it to be proper. I find it to be relevant, and I respectfully continue to overrule your objection, ma'am.

App. 90, lines 2 – 16. Trial counsel admitted that the evidence may have been relevant to the search, but was not relevant to the underlying facts of whether Petitioner trafficked in cocaine. Additionally, trial counsel noted she had expressed her concerns with moving forward with the trial without disposing of the pretrial motion regarding the search of Petitioner's person. In response, the trial judge stated, "I have ruled." He further explained that once he had ruled there would be no further argument. App. 90, line 17 – App. 91, line 8.

Petitioner testified that on February 17, 2005, he was visiting with people in the trailer. App. 99, lines 5 – 24. When the police arrived, Petitioner ran with the others to the back of the trailer. He observed other people throwing guns down. App. 100, lines 4 – 17. Everyone fell on the floor near the back door. App. 100, lines 20 – 21. The officers found a gun near the fallen group, not under Petitioner. App. 100, line 25 – App. 101, line 3. Petitioner denied having any drugs in his possession. App. 101, lines 19 – 20. Petitioner admitted he was aware that weapons and drugs were in the house, however. App. 107, lines 4 – 24; App. 115, line 25 – App. 116, line 16.

During the deliberations, the jury requested to hear the testimony of Jones and Savell again. App. 162, line 14 – App. 63, line 10; App. 164, line 23 – App. 165, line 19; App. 166, lines 6 – App. 167, line 21. Importantly, the jury asked why the gun and marijuana were admitted as evidence if Petitioner were not charged with crimes related to those items. App. 162, line 24 – App. 163, line 3. Ultimately, the jury found Petitioner guilty of possession with intent to distribute cocaine within proximity of a park and trafficking in cocaine. App. 170, lines 8 – 19.

Trial counsel moved for a new trial. App. 183, lines 20 – 24. Judge Early presided over a hearing on the motion on June 26, 2006. App. 181. Trial counsel argued that the court should grant a new trial because unfairly prejudicial evidence was presented to the jury by the solicitor. Specifically, trial counsel had moved to suppress any drugs found on Petitioner based upon an illegal search. Trial counsel indicated that the trial judge decided to dispose of the motion during the trial, rather than entertain evidence during a pretrial hearing. Trial counsel explained that one of her agreements with the solicitor was that there would be no mention of any other drugs except the cocaine for which Petitioner was being tried. Trial counsel explained that because the

suppression hearing was being conducted within the trial itself, the solicitor was allowed to introduce evidence of all the drugs and guns that were found in the house, which were irrelevant to the charged offenses and unfairly prejudicial. Trial counsel explained that the suppression motion should have been conducted outside the presence of the jury. App. 186, line 9 – App. 190, line 23.

The solicitor admitted he had agreed to leave information of other items out, “until the point where it became apparent that they were going to be used more as a sword than a shield and it was necessary to justify why the state was doing what they were doing.” The solicitor acknowledged he could have tried the case without the introduction of the items “had the specific issue not been raised for suppression that the officers had no reason to search him.” The solicitor explained that “once that became an issue, we had to prove what circumstances existed for the officers to do what they did, and some of those items were the guns that were in plain view before they even got to [Petitioner] and drugs in plain view before they got to [Petitioner] to justify their reasons for searching him at all.” App. 190, line 25 – App. 191, line 15.

Trial counsel explained that her argument was that the motion to suppress should have been handled outside the presence of the jury so that the prosecution would not have been allowed to present irrelevant and unfairly prejudicial evidence in front of the jury. Trial counsel explained that the only evidence that would have been presented to the jury would have been the cocaine. App. 191, line 17 – App. 192, line 14.

The judge disagreed and found “everything that was brought into the trial of the case was relevant as to the issue of guilt, relevant as to why they were there, relevant as to why they searched him. It was the totality of the circumstances that led to the ultimate indictment and the

ultimate trial of the case.” The judge found the evidence relevant and not unfairly prejudicial; therefore, the judge denied the motion for new trial. App. 192, lines 15 – 25; App. 193, line 2.

Direct appeal

Appellate counsel filed a brief pursuant to Anders, supra, on Petitioner’s behalf. In the brief, appellate counsel argued that the trial court erred by failing to grant Petitioner’s motion to suppress evidence found on his person as a result of an unlawful search. App. 203 – 213. Petitioner filed a pro se brief arguing the same issue as found in the Anders brief and that the trial court erred in failing to grant the motion to suppress because the state failed to comply with the warrant statute. App. 214 – 240. The Court of Appeals dismissed the appeal. App. 241 – 242. Petitioner filed a pro se petition for rehearing. App. 243 – 255. The Court of Appeals denied the petition. App. 256 – 257.

Facts produced at the PCR hearing

Petitioner testified that appellate counsel rendered ineffective assistance by failing to file a brief on the merits concerning the search issue. App. 277, line 8 – App. 279, line 17. Petitioner explained there should have been a pretrial hearing to challenge the search warrant. App. 286, lines 20 – 24. Petitioner pointed to the jury questioning why a gun and marijuana were introduced into evidence when Petitioner had not been charged with crimes related to those items. App. 287, lines 13 – App. 288, line 4.

Trial counsel testified that she objected to the search of Petitioner. App. 301, lines 24 – 25. Additionally, trial counsel recalled objecting to any reference to marijuana. App. 302, lines 19 – 20. Trial counsel recalled presenting arguments on the individualized suppression issue and that the officers testified that when conducting a search warrant, the police search everyone, just as they did in this case, which was the solicitor’s purported justification to support the search that

resulted in finding cocaine. App. 317, lines 2 – 5; App. 317, lines 6 – 12; App. 317, line 20 – App. 318, line 5. Trial counsel recalled objecting to the references to guns and marijuana to preserve the record for appeal. App. 318, lines 24 – App. 319, line 1.

PCR brief

After the PCR hearing, the judge directed the parties to submit briefs concerning their legal arguments. In the brief, PCR counsel argued that appellate counsel was deficient in failing to raise and argue the error in introduction of testimony to the jury about drugs and guns not relevant to the charge for which Petitioner was being tried. App. 349 – 350. PCR counsel explained that the trial court deferred his ruling on the issue of whether the search of Petitioner's person was proper until the solicitor presented evidence during its case-in-chief regarding the circumstances of the search. Thereafter, the prosecution repeatedly mentioned drugs and weapons, which were not the subject of the indictments for which Petitioner stood trial. Due to trial counsel's motion to suppress the cocaine, which was allegedly found on Petitioner's person, as a violation of the Fourth Amendment, and the trial judge's decision to defer ruling on such a motion until the solicitor had presented evidence during its case-in-chief regarding the circumstances of the search, the prosecution was able to present testimony concerning drugs and weapons in the home and allegedly on Petitioner's person. This presentation occurred despite the prosecutor's pretrial agreement not to present such evidence due to the trial judge's decision to defer ruling on the motion until evidence was presented during the trial. App. 350 – 352.

Order denying relief

In the order denying Petitioner relief from his convictions and sentences, the PCR judge acknowledged that Petitioner had alleged appellate counsel was deficient for failing to raise and argue the trial court's error in admitting evidence about drugs and guns not relevant to the charge

being tried. App. 360. Concerning Petitioner's allegations of ineffective assistance of appellate counsel, the PCR court explained "it [was] important to note that appellate counsel submitted a brief in accordance with Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967)." The PCR court further explained that the procedure outlined in Anders required the appellate court to conduct a full examination of all the proceedings to determine whether the case is wholly frivolous. The appellate court looks for any issue of arguable merit. The PCR court concluded it could not "review the appellate court's findings, and Petitioner had suffered no prejudice from failure to raise any of the preserved issues found in the record." App. 316 – 362.

Discussion

All criminal defendants are entitled to the effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 398 (1985). Courts review claims of ineffective assistance of appellate counsel using the test announced in Strickland v. Washington, 466 U.S. 668 (1984). See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, the reviewing court asks whether appellate counsel's performance was deficient and whether the defendant was prejudiced by the deficient performance. Id. Appellate counsel is not required to raise all non-frivolous claims, but may exercise sound professional judgment in selecting the appropriate grounds for a direct appeal in order to maximize the likelihood of a favorable result. Smith v. Robbins, 528 U.S. 259, 288 (2000). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-688. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997).

Even where appellate counsel filed an Anders brief, a reviewing court applies the Strickland test to claims of ineffective assistance of appellate counsel. Smith v. Robbins, 528 U.S. 259, 284

(2000); Bennett v. State, 383 S.C. 303, 309 n.6, 680 S.E.2d 273, 276 n.6 (2009). The PCR court erred by failing to analyze whether appellate counsel provided deficient performance prejudicing Petitioner. In fact, the PCR court conducted no analysis of Petitioner's claim. Rather, the PCR court noted that appellate counsel filed an Anders brief and explained the procedure for when such a brief is filed. Then, the PCR court proclaimed "[t]his court cannot review the appellate court's findings, and Petitioner suffered no prejudice from failure to raise any of the preserved issues found in the record." App. 361-362. This was clear error.

South Carolina provides for hearings on preliminary matters to be conducted as the interests of justice require. Rule 104, SCRE. In State v. Blassingame, 271 S.C. 44, 47-48, 244 S.E.2d 528, 530 (1978), this Court held that "[w]henver evidence is introduced that was allegedly obtained by conduct violative of the defendant's constitutional rights, the defendant is entitled to have the trial judge conduct an evidentiary hearing out of the presence of the jury at this threshold point to establish the circumstances under which it was seized." In 1996, this Court expressly modified the holding in Blassingame to require "a defendant ... by way of oral or written motion to the trial court, articulate specific factual and legal grounds to support his contention that evidence was obtained by conduct violative of his constitutional rights" in order to be entitled to a suppression hearing. State v. Patton, 322 S.C. 408, 411, 472 S.E.2d 245, 247 (1996). "[I]f the defendant's grounds are sufficiently definite, specific, detailed, and nonconjectural," the trial court shall grant a suppression hearing outside the presence of the jury. Id. at 411-412, 472 S.E.2d at 247.

After explaining when a defendant was entitled to an in camera hearing, this Court held a trial court's denial of a suppression hearing was harmless in Patton where the trial court did not "blindly" determine the defendant's issues were without merit, an in camera hearing concerning a statement allegedly made by the defendant adduced some evidence of the circumstances

surrounding the search and seizure, and the trial court examined the search warrant. Id. at 412, 472 S.E.2d at 247-248.

In the present case, the trial court erred in failing to conduct an in camera hearing concerning the admissibility of evidence seized from Petitioner's person. Trial counsel's objection to the evidence was "sufficiently definite, specific, detailed and nonconjectural," when she argued the officers did not have probable cause to search Petitioner simply because he was a guest in a home that was the target of a search warrant. App. 21, line 13 – App. 22, line 23. The prosecutor argued the search of Petitioner was pursuant to the right of law enforcement to search anyone in the house that was the target of the search warrant. App. 23, lines 9-22. The parties discussed the matter in chambers and provided case law to the judge. App. 25, line 19 – App. 26, line 7. In fact, the judge expressed his concerns about the search of Petitioner as he was merely a guest in the house. App. 26, lines 15-24.

The judge's concern regarding the search of Petitioner was not misplaced.⁴ In Ybarra v. Illinois, 444 U.S. 85, 91 (1979), the United States Supreme Court held that "[w]here the standard is

⁴ The trial judge erroneously analyzed the legal question under Michigan v. Summers, 452 U.S. 692 (1981), which concerned the ability of law enforcement to detain individuals during the execution of a search warrant. Although the ultimate issue was whether evidence seized from a detained individual's person was admissible, "[t]he dispositive question in th[e] case [was] whether the initial detention of [the defendant] violated his constitutional right to be secure against an unreasonable seizure of his person. Id. at 694. The state attempted to justify the search of the defendant as implicitly granted within the ambit of the search warrant. The Court explained that even if this argument were right, such an argument could not justify the initial detention of the defendant outside the premises described in the warrant. Id. The Court's inquiry concerned whether the officers had the authority to require the defendant to re-enter the house and to remain there while they conducted their search. Id. at 695. Quite clearly, the Summers case governs detentions (i.e., seizures of persons) during the execution of search warrants, not searches. In fact, the Court made clear that "[t]he 'seizure' issue in this case should not be confused with the 'search' issue presented in Ybarra v. Illinois, 444 U.S. 85 (1979). Id. at 695 n. 4. Quite clearly, the issue presented in the present case was not whether law enforcement's detention of Petitioner violated the Fourth Amendment; rather, the issue was whether the search of Petitioner violated the Fourth Amendment. Regardless of the analysis

probable cause, a search or seizure of a person must be supported by probable cause particularized with respect to that person.” The High Court explained “[t]his requirement cannot be undercut or avoided by simply pointing to the fact that coincidentally there exists probable cause to search or seize another or to search the premises where the person may happen to be.” Id. The Court next considered whether law enforcement was justified in conducting a patdown of Ybarra pursuant to Terry v. Ohio, 392 U.S. 1 (1968). The Court found no evidence to support a reasonable belief that Ybarra was armed and presently dangerous to police, which would be a necessary predicate to a patdown for weapons. Id. at 92-93. Therefore, the solicitor prosecuting Petitioner was required to show that police executing the search warrant on the residence in which Petitioner was a guest had a reasonable belief that Petitioner was armed and dangerous. Due to the showing the solicitor was required to make in order to show police had probable cause particularized to Petitioner, the solicitor undoubtedly felt obligated to present evidence of weapons and drugs found in plain view in the residence.

The trial court’s refusal to hold an in camera hearing prejudiced Petitioner. Due to the trial court’s ruling that he wanted to see how the evidence developed, the solicitor introduced evidence that he admittedly would not have otherwise introduced in the trial. Those items included drugs and weapons for which Petitioner was not standing trial. The finding of drugs and weapons in the home were irrelevant to whether Petitioner possessed cocaine. The danger of unfair prejudice of informing the jury of the other drugs and weapons found substantially outweighed the probative value of those items. In fact, the other drugs and weapons provided no probative evidence as to whether Petitioner possessed cocaine. See State v. Barroso, 328 S.C. 268, 493 S.E.2d 854

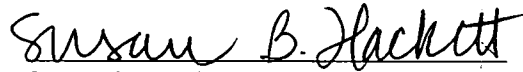
used, the trial court would have been required to examine the totality of the circumstances to determine the validity of the search or detention; therefore, the state would have been required to present evidence to justify the search, which would have been inadmissible before the jury.

(1997)(finding evidence of isolated marijuana transactions was not probative of the defendants' alleged roles as dealers in the cocaine trafficking conspiracy for which the defendants were on trial).

CONCLUSION

Petitioner requests this Court reverse the decision of the lower court and grant Petitioner relief from his convictions and sentences.

Respectfully submitted,



Susan B. Hackett
Appellate Defender

ATTORNEY FOR PETITIONER

This 27th day of January, 2014.

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Aiken County

William Jeffrey Young, Circuit Court Judge

JAMES PRATHER,

PETITIONER,


V.

STATE OF SOUTH CAROLINA,

RESPONDENT

CERTIFICATE OF SERVICE

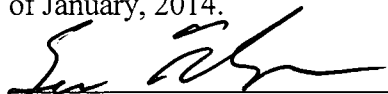
I certify that a true copy of the petition for writ of certiorari and a copy of the appendix in this case have been served on Megan Harrigan, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. James Prather #315663, at Allendale Correctional Institution, P.O. Box 1151, Hwy. 47, Fairfax, SC 29827, this 27th day of January, 2014.



Susan B. Hackett
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 27th day
of January, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.