

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

---

Appeal From Anderson County  
Alexander S. Macaulay, Circuit Court Judge

---

Opinion No.: 2014-UP-350

---

State of South Carolina,.....Respondent,

v.

Antonio Glover,.....Petitioner.

---

PETITION FOR REINSTATEMENT  
SCACR, RULE 231

---

**RECEIVED**

NOV 12 2014

**SC Court of Appeals**

Petitioner now moves to be heard by this Honorable Court on his "Petition for Reinstatement" of his Petition for a rehearing, pursuant to the S.C. Appellate Court Rules, Rule 231. In support of this petition, petitioner contends the following.

1. The opinion was filed on October 8,2014.
2. Petitioner received a copy of the Opinion on October 10,2014, from his appellate counsel. Appellate counsel stated that he was not going to file a petition for rehearing or certiorari.
3. Petitioner filed his pro se petition for rehearing on October 21,2014. The petition was clock-stamped filed on October 23,2014 by the Court of Appeals.
4. The Petition was returned on October 23,2014, with a notice that it could not be filed due to "hybrid representation". Petitioner received the notice/letter on October 24,2014.
5. Petitioner refiled his Petition for Rehearing on October 27,2014, along with a copy of his appellate counsel's notice that he was not filing for rehearing or certiorari. Which stating that petitioner could file his petition pro se.

6. On October 28,2014, Petitioner received a copy of exappellate counsel's letter to the S.C. Court of Appeals. Where he informed the court that he was not representing petitioner and petitioner could file his petition pro se.

SUMMARY

Petitioner made a timely Petition for Rehearing on October 23,2014. This petition was filed within 15 days after the opinion was made in his case [October 9,2014].

CONCLUSION

For all of the above reasons, I ask that my Petition for Reinstatement of my Petition for Rehearing be granted and that the Remittance be withdrawn as improperly filed.

Respectfully submitted,

Antonio Glover

Antonio Glover, #258670

Livesay Corr. Inst./ D-3-Rm.22-A

P.O. Box 580

Una, SC 29378

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Alexander S. Macaulay, Circuit Court Judge

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State of South Carolina,.....Respondent,  
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Antonio Glover,.....Petitioner.

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CERTIFICATE OF SERVICE

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Petitioner now certifies that he has served a true copy of his Petition to Reinstate upon the below listed, by placing such in the U.S.Mail via Livesay Corr. Inst. legal mail system, on November 7,2014.

THE FOLLOWING HAVE BEEN SERVED:

1. S.C. Attorney General's Office  
P.O. Box 11549  
Columbia, SC 29211

Antonio Glover  
Antonio Glover, #258670  
Livesay Corr. Inst./D-3-22A  
P.O. Box 580  
Una, SC 29378

November 7,2014

**RECEIVED**  
NOV 12 2014  
**SC Court of Appeals**



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

October 9, 2014

Antonio Glover, #258670  
Livesay Pre-Release Center  
Post Office Box 580  
Una, SC 29378

**RECEIVED**  
NOV 03 2014  
SC Court of Appeals

Re: Your case

Dear Mr. ~~Glover~~ *Antonio,*

Enclosed is a copy of the Opinion of the Court of Appeals affirming your conviction. This means we lost. I will not be filing a petition for rehearing or seeking certiorari at the South Carolina Supreme Court.

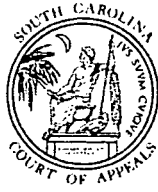
The Court held that your attorney conceded reasonable suspicion. This holding is in Paragraph 1. In Paragraph 4, the Court held the objection to the juror was not timely made. I am enclosing a PCR application for you. I believe you should raise the issue of ineffective assistance of counsel in a state PCR as relates to these grounds. The State will argue that you have waived the right to file a PCR application in exchange for your belated appeal. I think you should argue that your claims regarding issue preservation and the concession were not ripe until your appeal was decided.

Because the State may very well succeed in getting your PCR dismissed based on the waiver, I am also sending you a federal habeas petition. You should file this now and not wait to see what happens with your state PCR. I would not want your federal habeas statute of limitations to run out and find that the second PCR did not toll the statute. So file both the state and federal now.

**RECEIVED**

NOV 12 2014

SC Court of Appeals



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

October 23, 2014

Antonio Glover, 00258670  
Livesay Pre-Release  
P O Box 580  
Una SC 29378

Re: Antonio Glover v. The State  
Appellate Case No. 2011-202772

Dear Mr. Glover:

The Court has received your Petition for Rehearing. Because you are represented by counsel, we are returning your filings to you. See *Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) ("Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented by counsel are not to be accepted unless submitted by counsel.").

Very truly yours,

A handwritten signature in black ink, appearing to read "Jenny Abbott Kitchings".

CLERK

cc: David Alexander, Esquire  
John Walter Whitmire, Esquire  
Alan McCrory Wilson, Esquire

There is now a one-year statute of limitations for filing an application for a writ of habeas corpus in federal court. However, please be aware that the time between your direct appeal becoming final and the date your PCR application is filed will count against your federal habeas statute of limitations in the future. This statute of limitations is strictly enforced. I have enclosed a copy of the pertinent section of that statute for you to review. I am closing your file with this letter. Please understand that it is your obligation alone to ensure that a federal habeas application is timely filed if you want to continue challenging your conviction. Feel free to contact me if you have any questions, but writing to me does not stay the applicability of the statute of limitations. I do wish you the best in the future.

Sincerely,



David Alexander  
Appellate Defender

DAA/mpm

Enclosure: Habeas Corpus Application



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

October 27, 2014

The Honorable Jenny Abbott Kitchings  
Clerk, S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Antonio Glover v. The State  
Appellate Case No.: 2011-202772

Dear Ms. Kitchings:

I am in receipt of a copy of your letter to Antonio Glover dated October 23, 2014. On October 9, 2014, I informed Mr. Glover that I would not seek rehearing and that I was closing his case. Therefore, the Court's concerns about his *pro se* filing and hybrid representation do not seem to apply. If Mr. Glover desires to seek certiorari *pro se* at the Supreme Court, I would not wish to deny him that opportunity.

Sincerely,

David Alexander  
Appellate Defender

c. Antonio Glover  
John Walter Whitmire, Esq.



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

November 04, 2014

Antonio Glover, 00258670  
Livesay Pre-Release  
P O Box 580  
Una SC 29378

Re: Antonio Glover v. The State  
Appellate Case No. 2011-202772

Dear Mr. Glover:

This office received your petition for rehearing on November 3, 2014. Your case was remitted on October 27, 2014. This Court no longer retains jurisdiction over the above mentioned case. We are therefore returning your petition to you. Accordingly, no action will be taken.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jenny Abbott Kitchings".

CLERK

cc: David Alexander, Esquire  
John Walter Whitmire, Esquire  
Alan McCrory Wilson, Esquire

Copy for Return

November 7, 2014

S.C. Appeals Court  
P.O. Box 11330  
Columbia, SC 29201

Re: Antonio Glover v. State  
Appellate Case no. 2011-202772

Dear Ms. Kitchens:

Enclosed please find my Petition for Reinstatement and the reason for such. I ask that you please clock-stamp the extra copy and return it.

Thanks in advance.

Sincerely,

Antonio Glover  
Antonio Glover, #258670  
Livesay Corr. Inst.  
P.O. Box 580/ Dorm 3 Rm.22-A  
Una, SC 29378

cc: Attorney General  
File

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

\_\_\_\_\_  
Appeal From Anderson County  
Alexander S. Macaulay, Circuit Court Judge

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Opinion No.: 2014-UP-350  
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v.

Antonio Glover,.....Petitioner.

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SCACR, RULE 231  
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2. Petitioner received a copy of the Opinion on October 10,2014, from his appellate counsel. Appellate counsel stated that he was not going to file a petition for rehearing or certiorari.
3. Petitioner filed his pro se petition for rehearing on October 21,2014. The petition was clock-stamped filed on October 23,2014 by the Court of Appeals.
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CONCLUSION

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Respectfully submitted,

*Antonio Glover*

Antonio Glover, #258670

Livesay Corr. Inst./ D-3-Rm.22-A

P.O. Box 580

Una, SC 29378

THE STATE OF SOUTH CAROLINA  
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Appeal From Anderson County  
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CERTIFICATE OF SERVICE

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Petitioner now certifies that he has served a true copy of his Petition to Reinstate upon the below listed, by placing such in the U.S.Mail via Livesay Corr. Inst. legal mail system, on November 7,2014.

THE FOLLOWING HAVE BEEN SERVED:

1. S.C. Attorney General's Office  
P.O. Box 11549  
Columbia, SC 29211

Antonio Glover  
Antonio Glover, #258670  
Livesay Corr. Inst./D-3-22A  
P.O. Box 580  
Una, SC 29378

November 7,2014

November 7, 2014

S.C. Appeals Court  
P.O. Box 11330  
Columbia, SC 29201

Re: Antonio Glover v. State  
Appellate Case no. 2011-202772

Dear Ms. Kitchens:

Enclosed please find my Petition for Reinstatement and the reason for such. I ask that you please clock-stamp the extra copy and return it.

Thanks in advance.

Sincerely,

Antonio Glover  
Antonio Glover, #258670  
Livesay Corr. Inst.  
P.O. Box 580/ Dorm 3 Rm.22-A  
Una, SC 29378

cc: Attorney General  
File

**RECEIVED**

NOV 12 2014

**SC Court of Appeals**

October 21, 2014

S.C. Court of Appeals  
1015 Sumter Street  
Columbia, SC 29211

RECEIVED

NOV 03 2014

SC Court of Appeals

RE: Antonio Glover v. State

Appellate Case No. 2011-202772/ UP No.2014-UP-350

Dear Clerk:

Please find enclosed my Petition for Rehearing. I have placed one original and one copy of the same in the mail, for the extra copy to be returned with a clock-stamp filing.

Thanks in advance.

Sincerely,

Antonio Glover

Antonio Glover, #258670

Livesay Corr. Inst.

P.O. Box 580

Una, SC 29378

cc: Alan Wilson, Atty. Gen.  
File

RECEIVED

OCT 23 2014

SC Court of Appeals

October 27, 2014

**RECEIVED**

NOV 03 2014

**SC Court of Appeals**

Jenny Kitchens, Clerk  
P.O. Box 11629  
Columbia, SC 29211

Re: Appellate Case No. 2011-202772

Dear Ms. Kitchens:

I received your October 23, 2014 letter enclosing my Petition for Rehearing. Where you stated that it could not be filed because I am represented by counsel. However, my counsel had stated that he was not filing the petition, therefore I filed it. I am enclosing a copy of his letter indicating such.

I also spoke with Mr. Alexander, my ex-counsel today and he said that he had filed a motion with your office and he instructed me to refile my petition. In which please find enclosed.

Please return such in the prepaid envelope. Thanks in advance.

Sincerely,

---

Antonio Glover, #258670  
Livesay Corr. Inst./D-3-22C  
P.O. Box 580  
Una, SC 29378

cc: David Alexander, Esquire  
Alan McCorry Wilson, Esquire

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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Appeal From Anderson County  
Alexander S. Macaulay, Circuit Court Judge

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Opinion No. 2014-UP-350

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State of South Carolina,.....Respondent,

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Antonio Glover,.....Petitioner.

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PETITION FOR REHEARING

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**RECEIVED**

NOV 03 2014

**SC Court of Appeals**

Antonio Glover, #258670  
Livesay Corr. Inst.  
P.O. Box 580  
Una, SC 29378  
Pro Se

Other Counsel Of Record:

Alan McCrory Wilson  
Attorney General  
P.O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR RESPONDENT

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TABLE OF AUTHORITIES

**Cases**

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State v. Gullede, 287 S.E.2d 488(1982).....

State v. Robertson, 31 S.E. 868(1899).....

State v. Inman, Opinion No. 27402(S.Ct.June 18,2014).....

**Constitutional Provisions**

South Carolina Constitutional Article I, § 14.....

United States Constitutional Amendment IV.....

United States Constitutional Amendment VI.....

STATEMENT OF ISSUES ON APPEAL

I.

THE COURT OF APPEALS SHOULD HAVE HELD THAT PETITIONER WAS ILLEGALLY SEIZED AND SEARCHED IN VIOLATION OF HIS FOURTH AMENDMENT RIGHTS.

II.

THE COURT OF APPEALS SHOULD HAVE HELD THAT THE TRIAL COURT ERRED IN DENYING THE PETITIONER'S MOTION TO SUPPRESS BECAUSE PETITIONER WAS UNLAWFULLY DETAINED AND SEARCHED WITHOUT REASONABLE SUSPICION OR PROBABLE CAUSE.

III.

THE COURT OF APPEALS SHOULD HAVE HELD THAT THE PETITIONER WAS DENIED A FAIR TRIAL DUE TO THE TRIAL COURT'S FAILURE TO ADDRESS AND ENTERTAIN PETITIONER'S MOTION TO REMOVE JURORS FOR WITHHOLDING INFORMATION DURING VOIR DIRE.

### STATEMENT OF THE CASE

On October 23, 2007, Antonio Glover was indicted in Anderson County for resisting arrest and trafficking crack cocaine pursuant to the S.C. Code §44-53-375(C)(1)(c). App. 320;327. On December 7, 2009, a suppression hearing was held before the Honorable J. Cordell Maddox, Jr. App.1. Charles Whiten represented Glover. App.1. Jennings Byford represented the State. App.1. On December 8, 2009, Judge Maddox issued an order denying Glover's suppression motion. App.51.

On March 29-30, 2010, Glover was tried before the Honorable R. Lawton McIntosh. App.53. Mr. Whiten represented Glover. App.53. Elizabeth H. Byford represented the State. App.53. The jury convicted Glover and Judge McIntosh sentenced him to 15 years' imprisonment on the trafficking crack cocaine conviction and one year for resisting arrest, to be served concurrently. App. 280, ll. 21-25.

On December 1, 2010, Glover filed a PCR application. App. 283. In his application, he alleged ineffective assistance of counsel for failing to properly file his appeal. On June 8, 2011, a hearing was held before the Honorable Alexander S. Macaulay. App.304. Glover was represented by James B. King. App. 304. The State was represented by Kaelon E. May and Salley Elliott. App. 304. At the hearing, the State conceded that counsel had failed to properly file Glover's appeal and consented to an appeal pursuant to White v. State. App. 307, ll. 10-13. On October 14, 2011, Judge Macaulay issued an order dismissing Glover's PCR application and granting him a belated appeal. App. 316.

On September 11, 2014, oral argument was held. On October 8, 2014, Petitioner's case was affirmed.

Petitioner now files this Petition for Rehearing, pursuant to Rule 221, SCACR.

## ARGUMENT

1. The Appellate Court should have granted Petitioner relief because he was illegally seized and searched in violation of his Fourth Amendment Rights protections.

The evidence seized from Petitioner was obtained as a result of a violation of his Fourth Amendment rights because the police failed to have reasonable suspicion to stop or detain him and the subsequent arrest was unlawful.

The Appellate Court has overlooked and misapprehended the facts of the case. The officers failed to prove that they based their stop on a reasonable suspicion. This is a proven fact because the officers attempted to construct reasonable suspicion at the suppression hearing and trial. In which their testimony was different at each step of the way.

The fact that the Trial Court acknowledged that no probable cause existed and that the officers had several inconsistencies in their statements, shows that the Trial Court did not base his ruling on the facts presented at trial. Even though the Trial Court recognized and made a verbal notation of such. Therefore, the trial court abused his discretion when he denied the suppression motion.

The Appellate Court failed to consider these facts in making their ruling. The Appellate Court allowed the officers to make "post hoc rationalizations to validate the seizures that turned up the contraband" in this case. Which has been forbidden in this circuit. United States v. Foster, 634 F.3d. 243, 249 (4th Cir.2011).

The officers' actions clearly violated the Petitioner's rights against illegal search and seizure. As the Courts have stated in United States v. Burton, 228 F.3d 524 ( ). Burton was identical in facts and circumstances. However, the Supreme and Federal Courts ruled that the seizure and search of Burton was illegal. In which this Honorable Court must follow.

Clearly the arrest of Petitioner was illegal and made in violation of his constitutional rights. Petitioner attempted to leave the scene when he wasn't under arrest. Both officers clearly stated that Petitioner was not under arrest when he took flight.

However, the officers told the court that the Petitioner resisted arrest. How could this be so when there was never a lawful arrest? If Petitioner had not ran into the officer, what or how could the officers justify the search of his person? They cannot, thus, the evidence found is the product of fruit of the poisonous tree and cannot be admitted in court.

Moreover, the officers admitted that they could not tell if Petitioner was actually involved in any illegal activity. Nor do they say that they wanted to search Petitioner for weapons because of fear. Therefore, no exception to the Fourth Amendment exist.

For the above listed reasons, this petition for rehearing should be granted.

2. The Appellate Court should have granted Petitioner relief because the Trial Court erred in holding that the arrest of Petitioner was lawful.

Petitioner asserts that his arrest was unlawful. The Appellate Court has overlooked and misapprehended the fact that the officers clearly conceded that Petitioner was never under arrest prior to his attempt to flee. Accidental contact with the officer does not justify a lawful arrest. The officers displayed ignorance of their knowledge of law, because they admit that the arrest was unlawful by their actions in charging Petitioner with resisting arrest, when they state the Petitioner was "never under arrest. Their statements and actions constitute the precise definition of a oxymoron, because how can the Respondent argue both (1) the Petitioner was not under arrest and (2) that the Petitioner resisted arrest.

The Supreme Court and Federal Court have supported Petitioner's allegation in United States v. Burton, 228 F.3d 524( ).

Therefore, Petitioner argues that the Appellate Court overlooked the fact that the officers admitted that they never

placed the Petitioner under arrest. Which is a perquisite of resisting arrest. Without it, the arrest of Petitioner was unlawful. See Burton.

3. The Appellate Court should have granted Petitioner relief due to the Trial Court failing to grant his motion to remove jurors for withholding information during voir dire.

The Appellate Court overlooked the fact that the Petitioner was denied a fair trial. In such, Petitioner was denied a fundamental right to trial by a impartial jury, because to jurors withheld information during voir dire. Petitioner's trial counsel motioned the court for removal of theses jurors once their deceit came to light. However, the Trial Court failed to grant the motion. The Appellate Court overlooked the fact that the motion was raised immediately after the facts came to light. However, the Appellate Court states that the motion was not timely raised. There is nothing that could be done about the jurors prior to the deceit being identified.

It is a fundamental right for a defendant is entitled to a trial by a impartial juror. State v. Gullede, 287 S.E.2d 488,489(1982), citing the Sixth Amendment of the U.S. Constitution and Article I, Sect. 14, of Constitution:

"Every fair-minded person will readily recognize the importance of having the jury to whom a case is submitted for trial composed of persons who, as far as practicable, are free from any bias or prejudice, either for a against one or the other of the parties, whether the same arises from interest, by reason of relationship or otherwise, or from having previously formed or expressed an opinion as to the merits of the controversy."

State v. Robertson, 31 S.E. 868(1899).

The Trial Court's failure to make an inquiry into the basis of Petitioner's motion to remove the jurors was a requirement. It

of Petitioner's motion to remove the jurors was a requirement. It was the only way to ensure that the Petitioner was provided a fair trial. As you know, the Constitution trumps any statutory law that collides with it. State v. Woods, 550 S.E.2d 282, 284(2001), lays the proper formula to address these types of allegations, all in an attempt to provide a defendant with a fair trial. A accused is guaranteed a fair trial, not a perfect trial. The actions of the Trial Court's failure to question the jurors, violates the Petitioner's right to a fair trial. Which is secured through the U.S. Constitutional Amendments Six and Fourteen and S.C. Constitutional Article 1, Section 14.

A inquiry into why the jurors deceived the court was necessary as the "only" way to provide a fair trial to Petitioner. This error on behalf of the Trial Court is a fundamental error, because it is the foundation of Petitioner's fundamental right to trial. At a minimum, in the abundance of caution, the Trial Court was required to question the jurors and or remove them and replace them with the alternate jurors. "The proper remedy in such cases is the granting of a new trial." State v. Inman, Op.No. 27402, June 18, 2014). See also, Ford, 512 S.E.2d @ 504.

The Appellate Court should have granted relief on this issue.

#### CONCLUSION

For these above stated reasons, Petitioner's rehearing should be granted.

Respectfully submitted,

Antonio Glover  
Antonio Glover  
Pro Se

October 21, 2014

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

RECEIVED

NOV 03 2014

SC Court of Appeals

Appeal From Anderson County  
Alexander Macaulay, Circuit Court Judge

Antonio Glover,

Petitioner,

vs.

State of South Carolina,

Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the "Petition for Rehearing" has been served upon the below listed, by placing such in the U.S.Mail via Livesay Corr. Inst. legal mail system, on October 21,2014

THE FOLLOWING HAVE BEEN SERVED:

1. S.C.Attorney General's Office  
Alan Wilson, Atty. Gen.  
P.O. Box 11549  
Columbia, SC 29211

Antonio Glover  
Antonio Glover, #258670  
Livesay Corr. Inst.  
P.O. Box 580  
Una, SC 29378

October 21,2014  
Spartanburg, S.C.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Antonio Glover, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2011-202772

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Appeal From Anderson County  
Alexander S. Macaulay, Circuit Court Judge

---

Unpublished Opinion No. 2014-UP-350  
Heard September 11, 2014 – Filed October 8, 2014

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**AFFIRMED**

---

Appellate Defender David Alexander, of Columbia, for  
Petitioner.

Attorney General Alan McCrory Wilson, Chief Deputy  
Attorney General John W. McIntosh, Senior Assistant  
Deputy Attorney General Salley W. Elliott, Assistant  
Attorney General Kaelon E. May, and Assistant Attorney  
General John Walter Whitmire, all of Columbia, for  
Respondent.

---

**PER CURIAM:** This is a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974), in which Antonio Glover argues the trial court erred by: (1) denying his motion to suppress and (2) declining his motion to remove two jurors. Glover contends his convictions should be reversed on these grounds. We affirm, pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in denying Glover's motion to suppress evidence seized from his person based on a lack of reasonable suspicion:<sup>1</sup> *Ex parte McMillan*, 319 S.C. 331, 335, 461 S.E.2d 43, 45 (1995) (providing a party cannot concede an issue at trial and then complain on appeal).

2. As to whether the trial court erred in denying his motion to suppress based upon Glover's argument that his arrest was unlawful: *State v. Gamble*, 405 S.C. 409, 416, 747 S.E.2d 784, 787 (2013) (stating that a search incident to a lawful arrest is one of the exceptions to the Fourth Amendment prohibition against warrantless searches and seizures); *State v. Robinson*, 335 S.C. 620, 634, 518 S.E.2d 269, 276 (Ct. App. 1999) (holding that when determining whether an arrest was lawful, a court must consider "whether, at the moment the arrest was made, the officers had probable cause to make it—whether at that moment the facts and circumstances within their knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the [appellant] had committed . . . an offense" (quoting *Beck v. Ohio*, 379 U.S. 89, 91 (1964))).

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<sup>1</sup> Even if this issue was not procedurally barred, we note there was evidence to support the trial court's decision that reasonable suspicion existed to briefly detain Glover. See *State v. Banda*, 371 S.C. 245, 251, 639 S.E.2d 36, 39 (2006) ("Our review in Fourth Amendment search and seizure cases is limited to determining whether any evidence supports the trial court's finding."); see also *State v. Khingratsaiphon*, 352 S.C. 62, 69, 572 S.E.2d 456, 459 (2002) ("A police officer may stop and briefly detain and question a person for investigative purposes, without treading upon his Fourth Amendment rights, when the officer has a reasonable suspicion supported by articulable facts, short of probable cause for arrest, that the person is involved in criminal activity. Reasonable suspicion requires a particularized and objective basis that would lead one to suspect another of criminal activity. In determining whether reasonable suspicion exists, the totality of the circumstances—the whole picture—must be considered." (internal citations and quotation marks omitted)).

(alteration by court)); S.C. Code Ann. § 16-3-600(E)(1) (Supp. 2013) (providing that "[a] person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so."); *State v. Goodwin*, 351 S.C. 105, 110-11, 567 S.E.2d 912, 914-15 (Ct. App. 2002) (holding that the underlying arrest "need not be prosecuted in order to successfully prosecute for resisting arrest," and similarly, "neither should the absence of a charge on the underlying arrest bar evidence seized subsequent to a proper resisting arrest charge).

3. As to whether the trial court erred in denying his motion to suppress based upon Glover's argument that the chain of custody was unreliable: *State v. Taylor*, 360 S.C. 18, 23, 598 S.E.2d 735, 737 (Ct. App. 2004) ("The admission of evidence is addressed to the sound discretion of the trial judge."); *id.* at 22-23, 598 S.E.2d at 737 ("A party offering into evidence fungible items such as drugs or blood samples must establish a chain of custody as far as practicable. Where the analyzed substance has passed through several hands, the evidence must not leave it to conjecture as to who had it and what was done with it between the taking and the analysis.") (citation omitted); *id.* at 24, 598 S.E.2d at 737 (If "there is evidence to establish the identity of those who have handled the evidence and the manner in which it was handled, a weakness in the chain merely raises a question of credibility, not admissibility."); *see also State v. Johnson*, 318 S.C. 194, 196, 456 S.E.2d 442, 444 (Ct. App. 1995) (finding a discrepancy between the dates on which a handler in the chain of custody received the evidence merely reflected upon the credibility of the evidence when no facts were presented to indicate the drugs were not within the control of identifiable people during the entire time).

4. As to whether the trial court erred in declining to remove two jurors after the jury had been impaneled: *Creighton v. Coligny Plaza Ltd. P'ship*, 334 S.C. 96, 111, 512 S.E.2d 510, 518 (Ct. App. 1998) ("[Section 14-7-1030 of the South Carolina Code (Supp. 2013)], provides that any objection to a juror is waived if not made before the jury is impaneled."); *id.* (holding that "[a] party objecting to a juror after the jury is impaneled must show that he could not have, in the exercise of due diligence, discovered the ground for objection before the impanelling of the jury.").

**AFFIRMED.**

**FEW, C.J., and THOMAS and LOCKEMY, JJ., concur.**