THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF GENERAL SESSIONS

THE HONORABLE G. EDWARD WELMAKER, Judge

THE STATE

RESPONDENT

v.

ERICK HEWINS

APPELLANT

RECEIVED
APR 20 2015
SC SUPREME COURT

APPELLATE CASE No. 2013-000334 / 2015-000595

PETITION FOR WRIT OF CERTIORARI

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CASES

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{STATEMENT OF ISSUES ON APPEAL}

1.) THE TRIAL COURT ERRED BY FAILING TO SUPPRESS EVIDENCE SEIZED BY OFFICER GARDNER FOLLOWING THE UNLAWFUL FOURTH AMENDMENT SEIZURE OF DEFENDANT BECAUSE OFFICER GARDNER FAILED TO ARTICULATE ANY REASON THAT HE REASONABLY SUSPECTED DEFENDANT WAS ENGAGED IN CRIMINAL ACTIVITY AT THE TIME OFFICER'S SAW DEFENDANT SITTING IN HIS VEHICLE.

2.) THE TRIAL COURT ERRED WHEN IT FOUND OFFICER GARDNER HAD REASONABLE SUSPICION SUFFICIENT TO CONDUCT A TERRY FRISK WHERE OFFICER GARDNER FAILED TO SUPPORT FOR HIS BELIEF THAT DEFENDANT WAS ARMED AND DANGEROUS AND WHERE OFFICER GARDNER ALLOWED TO MUCH TIME TO ELASPED BETWEEN ASKING DEFENDANT TO EXIT HIS VEHICLE AND ACTUALLY CONDUCTING FRISK.

3.) THE TRIAL COURT ERRED IN FAILING TO SUPPRESS EVIDENCE SEIZED BY OFFICER GARDNER DURING A SECOND UNLAWFUL SEARCH OF DEFENDANT.

4.) THE TRIAL COURT ERRED IN ADMITTING EVIDENCE WHERE THE STATE FAILED TO PROPERLY IDENTIFIED BY TESTIMONY OR SWORN STATEMENT THE EVIDENCE CUSTODIAN INITIALLY RESPONSIBLE FOR RETRIVING OR THE CONDITION OF THE EVIDENCE WHEN IT WAS logged INTO PROPERTY AND EVIDENCE.

STATEMENT OF THE CASE

BEFORE TRIAL HEWIN MOVED TO SUPPRESS THE DRUG EVIDENCE ARGUING THE DETENTION AND SUBSEQUENT PAT-DOWN WAS UNLAWFUL UNDER THE FOURTH AMENDMENT. THE TRIAL COURT DENIED HIS MOTION AFTER A HEARING DURING TRIAL HEWINS OBJECTED TO THE ADMISSION OF THE DRUG EVIDENCE PURSUANT TO RULE (6) OF THE SOUTH CAROLINA RULES OF CRIMINAL PROCEDURES ARGUING THE CHAIN OF CUSTODY WAS INCOMPLETE, THE TRIAL COURT DENIED THE MOTION AND THE JURY FOUND HEWINS GUILTY AS INDICTED. ON APPEAL HEWINS RAISED FOUR ISSUES:

1.) THE POLICE LACKED REASONABLE SUSPICION TO DETAIN HIM.
2.) THE POLICE DID NOT HAVE A REASONABLE BELIEF HE WAS ARMED AND DANGEROUS TO JUSTIFY THE PAT DOWN OR;
3.) A SECOND REACH INTO HIS POCKET AND
4.) THE STATE DID NOT PROPERLY IDENTIFY BY TESTIMONY OR SWORN STATEMENT, EITHER THE INITIAL EVIDENCE CUSTODIAN RESPONSIBLE FOR RETRIEVING THE DRUG EVIDENCE OR THE CONDITION OF THE EVIDENCE.

ON THE NIGHT OF HEWINS ARREST OFFICER GARDNER AND RACHEL HALL OF THE GREENVILLE POLICE DEPARTMENT'S AGGRESSIVE PATROL UNIT DROVE INTO PARKING LOT OF THE CLARION INN. AT THE SUPPRESSION HEARING GARDNER TESTIFIED THE LOCATION WAS "A VERY HIGH CRIME AREA WITH DRUGS AND PROSTITUTION AND BREAK-INS" WHERE GARDNER HAD PREVIOUSLY DEALT WITH MULTIPLE DRUGS TRAFFICKING CASES AND NUMEROUS PROSTITUTION CASES."

THE OFFICERS OBSERVED HEWINS IN A BLACK LEXUS BACKED INTO A PARKING LOT SPOT NEXT TO A CAMRY. GARDNER PULLED THE UNMARKED PATROL CAR TO THE MIDDLE OF THE LANE IN THE PARKING LOT NEAR THE LEXUS AND CAMRY "FOR OFFICER SAFETY PURPOSES" THE PARKING LOT WAS NOT WELL LIT AT THE TIME, THE ONLY LIGHT IN THE PARKING LOT CAME FROM THE CLARION INN BUILDING.

GARDNER AND HALL EXITED THEIR VEHICLE AND IDENTIFIED THEMSELVES AS POLICE OFFICERS AS THEY APPROACHED HEWINS AND THE TWO WOMAN. GARDNER POSITIONED HIMSELF BETWEEN THE LEXUS AND

CAMRY "SO HE COULD SEE HEWINS" FROM BEHIND ON ONE SIDE AND THE TWO WOMAN ON THE OTHER. ALL THREE INDIVIDUALS "APPEARED TO BE VERY NERVOUS ALMOST INSTANTANEOUSLY" AND STOPPED TALKING TO EACH OTHER. GARDNER ASKED WHAT THEY WERE DOING IN THE PARKING LOT AND FOR THEIR IDENTIFICATION -- THE YOUNG LADY HAD THEIRS (ID) MR. HEWINS DID NOT. WHEN MR. HEWINS ASKED HEWINS WHAT HE WAS DOING AT THE CLARION INN, HEWINS RESPONDED HE WAS THERE TO SEE HIS BABY MOM IN ROOM (237) WHEN GARDNER ASKED FOR THAT PERSON'S NAME HEWINS TOLD GARDNER HE DIDN'T KNOW HER NAME, HEWINS WAS STUTTERING WHEN HE WAS SPEAKING BEGAN TO GET INCREASINGLY NERVOUS AND BEGAN SWEATING PROFUSELY.

HALL RAN A DATABASE CHECK ON THE THREE OF THEM. HALL RECEIVED RESPONSES ON THE WOMEN BUT HAD TROUBLE GETTING HEWINS INFORMATION BACK GARDNER THEN CALLED FOR BACK-UP.

GARDNER TESTIFIED HEWINS CONTINUALLY TOUCHED HIS LEFT POCKET, GARDNER STATED FOR HIS OWN PERSONAL REASONS/SAFETY HE ASKED HEWINS TO STOP MOVING HIS LEFT HAND AND TO LEAVE HIS LEFT POCKET ALONE. GARDNER TESTIFIED HEWINS HAND MOTIONS COULD BE A BIG INDICATOR THAT AN INDIVIDUAL EITHER HAS A WEAPON OR THAT THEY HAVE CONTRABAND OR DRUGS INSIDE THEIR POCKET IT'S SOMETHING THAT A LOT OF INDIVIDUALS THAT WE LEARN THROUGH OUR TRAINING DO UNCONSCIOUSLY AND CONSCIOUSLY HEWINS CONTINUED TO TOUCH HIS POCKET AFTER BEING ASKED NOT TO DO SO. WHEN BACK ARRIVED GARDNER ASKED HEWINS TO GET OUT OF THE LEXUS, GARDNER INFORMED HEWINS THAT HE WAS GOING TO CONDUCT A "TERRY FRISK" OF HIS PERSON FOR WEAPONS ON THE OUTSIDE OF HIS CLOTHING. GARDNER CONDUCTED A PAT-DOWN FELT A HARD LUMP INSIDE OF HIS LEFT POCKET AND ASKED HEWINS WHAT THE LUMP WAS. HEWINS DID NOT RESPONDED AND GARDNER

THEN ASKED HEWINS IF HE COULD HAVE CONSENT AND GARDNER FOUND A LARGE WAD OF CASH ROLLED UP IN RUBBER BANDS. HEWINS DIDN'T SAY WHY HE HAD SUCH A LARGE AMOUNT OF MONEY ON HIS PERSON AND STATED HE DID THIS AND THAT FOR A LIVING GARDNER WITHOUT ANY FURTHER INQUIRY OR NOTICE GARDNER REACHED INTO HEWINS POCKET A SECOND TIME GARDNER STATED:

"DUE TO THE FACT I COULDN'T FULLY CLEAR OUT HIS POCKET DUE TO THIS LARGE LUMP, AND THEN ALSO HAVING HIS CONSENT I REACHED BACK INTO HIS POCKET TO CLEAR THE REST OF THE ITEMS OUT BECAUSE THERE COULD POSSIBLY STILL HAVE BEEN A WEAPON UNDERNEATH THE LARGE LUMP AND IT WAS FOUR GREEN ROUND PILLS WHICH WERE CONFIRMED TO BE CLONAZEPAM WHICH IS A SCHEDULE IV SUBSTANCE. AFTER FINDING THE PILLS GARDNER ARRESTED HEWINS AND CALLED A TOW TRUCK FOR HEWINS CAR. PURSUANT TO POLICY OFFICERS CONDUCTED AN INVENTORY OF THE VEHICLE FOR VALUABLES, OR WEAPONS, OR OTHER CONTRABAND. DURING THE SEARCH OF HEWINS CAR GARDNER FOUND A LARGE PEICE OF CRACK IN THE- ON THE BACK FLOORBOARD, APPROXIMATELY EIGHTEEN TO TWENTY GRAMS AND AN ADVIL BOTTLE IN THE CENTER CONSOLE WITH MULTIPLE SMALL CRACK ROCK INSIDE. ANOTHER OFFICER ASSISTING WITH THE SEARCH FOUND A SILVER SCALE IN A DUFFLE BAG IN THE TRUNK OF THE CAR.

{STANDARD OF REVIEW}

THE COURT OF APPEALS ERRED WHEN MAKING A FACTUAL DETERMINATION REGARDING "CONSENT" WHICH WAS NOT DECIDED BY THE TRIAL COURT NOR SUPPORTED BY SUFFICIENT EVIDENCE OR ARGUMENT BY THE STATE DURING THE TRIAL OF THIS MATTER. {STATE V. PROVET} 405 S.C. 101, 113, 747 S.E. 2d 459, 460 (S.C. 2013) THE STATE HAS THE BURDEN TO DEMONSTRATE THE VOLUNTARINESS OF CONSENT WHEN DISPUTED BY THE DEFENDANT. IN THE CASE AT BAR THERE IS NO RULING BY THE TRIAL COURT THAT THE PETITIONER VOLUNTARILY CONSENTED TO A SEARCH. IN ADDITION THE STATE DID NOT RAISE THIS AS AN ARGUMENT FOR DETERMINATION, NOR DID THE STATE OFFER ANY ADDITIONAL EVIDENCE IN SUPPORT OF THIS ARGUMENT. RATHER DURING THE TRIAL OF THIS MATTER THE ARRESTING OFFICER TOOK THE STAND AND ALLEGED UPON INFORMING PETITIONER THAT THE OFFICER INTENDED TO PERFORM A "TERRY FRISK" FOR WEAPONS, THAT HE ASKED PETITIONER FOR PERMISSION TO REACH INTO HIS POCKET (R.O.A. p. 14 L-7-25) THE PETITIONER TOOK THE STAND AND DENIED HAVING PROVIDED CONSENT. (R.O.A. pg. 75-76 L-1-23 DESPITE THE CONTRADICTORY TESTIMONY FROM THE APPELLANT THE STATE MADE NO EFFORT TO ASK THE COURT TO RULE ON THE VOLUNTARY CONSENT AT THIS TIME AND PROVIDED NO CORROBARATING EVIDENCE OF THE ENCOUNTER TO SUPPORT THE OFFICER'S CONTENTION THAT HE RECEIVED VOLUNTARY CONSENT TO SEARCH. THE TRIAL COURT DID NOT RULE ON THIS MATTER, NOR DID ANY PART OF THE COURT DECISION ON SUPPRESSION INVOLVED A CONSENSUAL SEARCH. THE SOUTH CAROLINA COURT OF APPEALS INDICATED ON PAGE (5) OF ITS OPINION "THAT A DETERMINATION AS TO THE ARRESTING OFFICER'S REASONABLE SUSPICION THAT PETITIONER HAD CONTRABAND IN HIS POCKET WAS UNNECESSARY BECAUSE OFFICER GARDNER TESTIFIED HE RECEIVED HEWINS CONSENT TO REACH INTO HIS POCKET. CITING {STATE V. BAILEY} 276 S.C. 32, 35-36 274 S.E. 2d 913, 915 (1981) RECOGNIZING CONSENT

AS AN EXCEPTION TO THE WARRANTLESS SEARCH REQUIREMENT. THIS COURT RELIANCE ON {STATE V. BAILEY} IS MISGUIDED HOWEVER AS THE TRIAL COURT IN THIS CASE NEVER MADE A DETERMINATION ON VOLUNTARY CONSENT, NOR DID THE STATE PRESENT ANY CASE IN SUPPORT OF VOLUNTARY CONSENT. {PROVET SUPRA} THE EXISTENCE OF VOLUNTARY CONSENT IS DETERMINED FROM THE TOTALITY OF THE CIRCUMSTANCES WHEN THE DEFENDANT DISPUTES THE VOLUNTARINESS OF HIS CONSENT THE BURDEN IS ON THE STATE TO PROVE THE CONSENT WAS VOLUNTARY. RATHER THE ENTIRE BASIS FOR THE COURT OPINION ON CONSENT RESTS EXCLUSIVELY WITH OFFICER GARDNER TESTIMONY WHICH THE PETITIONER REFUTED WHEN HE TOOK THE STAND AT TRIAL. AS THIS COURT IS AWARE A WARRANTLESS SEARCH IS REASONABLE WITHIN THE MEANING OF THE FOURTH AMENDMENT WHEN VOLUNTARY CONSENT IS GIVEN FOR THE SEARCH. {PALACIO V. STATE} 333 S.C. 506, 514, 511 S.E. 2d (1999) TO DETERMINE VOLUNTARY CONSENT A TRIAL COURT MUST ENGAGE IN A TOTALITY OF THE CIRCUMSTANCES EVALUATION WITH THE BURDEN ON THE STATE TO DETERMINE VOLUNTARY CONSENT. IF THE STATE INTENDED FOR CONSENT TO BE A DISPOSITIVE ISSUE IT WAS THE STATE BURDEN TO RAISE THE ISSUE HOWEVER AND THUS THERE IS NO RULING ON THIS ISSUE BY THE TRIAL COURT NOR ANY RECORD THAT THE TRIAL COURT WEIGHED THE TOTALITY OF THE CIRCUMSTANCE REGARDING THE ISSUE. MOREOVER THE COURT EVEN RECOGNIZED THAT THERE IS NO OPINION FROM THE LOWER COURT AS TO THE SCOPE OF ANY CONSENT. IN ITS OPINION THE SOUTH CAROLINA COURT OF APPEALS STATES PLAINLY THAT THE TRIAL COURT DID NOT MAKE ANY FINDINGS AS TO WHETER SCOPE OF CONSENT INCLUDED SECOND SEARCH/REACH INTO HEWINS POCKET. THE COURT WENT ON TO POINT OUT THAT IT WAS TROUBLED BY OFFICER GARDNER BARE ASSERTION THAT HE RECEIVED CONSENT FOR THE SECOND REACH TO JUSTIFY HIS ACTIONS.

CITING {JOHNSON V. UNITED STATES} 333 U.S. 10, 13-14 (1948) YET THE COURT RELIED UPON OFFICER GARDNER BARE ASSERTION THAT HE RECEIVED CONSENT FOR THE SECOND SEARCH/REACH INTO PETITIONER POCKET LIKE THERE WAS CONSENT FOR THE INITIAL SEARCH INTO PETITIONERS POCKET AND IGNORES THAT THE TRIAL COURT DID NOT OPINE IN ANYWAY AS TO CONSENT OF THE PETITIONER FOR AN INITIAL SEARCH.

WHILE RULE 220 (C) OF THE SOUTH CAROLINA APPELLATE COURT RULES ALLOWS THE COURT OF APPEALS TO AFFIRM THE LOWER COURT ON ANY RULING, ORDER, DECISION, OR JUDGMENT UPON ANY GROUND APPEARING IN THE RECORD ON APPEAL THERE IS NO RULING, ORDER, DECISION, OR JUDGMENT REGARDING CONSENT IN THIS CASE. IN FACT THIS COURT OPINION INDICATES AS MUCH, BECAUSE THE BASIS FOR THIS COURT OPINION IS LIMITED TO THE OFFICER TESTIMONY RATHER THAN A TOTALITY OF THE CIRCUMSTANCE EVALUATION BY THE TRIAL COURT. THUS THIS COURT HAS MADE A FACTUAL DETERMINATION NOT RULED UPON BY THE TRIAL COURT AND UNSUPPORTED BY THE RECORD ON APPEAL WITH REGARDS TO CONSENT. PETITIONER THINKS IT IS INSTRUTIVE THAT THE COURT OF APPEALS ON PAGE (6) OF ITS OPINION THAT "IF GARDNER HAD HEWINS CONSENT TO CONDUCT THE FIRST REACH INTO HEWIN POCKET THE SCOPE OF THE CONSENT GRANTED COULD HAVE BEEN LIMITED TO DETERMINING WHAT THE LUMP IN HEWIN POCKET WAS THIS STATEMENT ILLUSTRATES THAT THE QUESTION AS TO CONSENT WAS NEVER ANSWERED BY THE TRIAL COURT AND IS AN INAPPROPRIATE BASIS FOR THIS COURT'S DECISION. {STATE V. BROCKMEYER} 406 S.C. 324, 336 N.8. 751 S.E.2d 645, 651 N. 8 (2013) BECAUSE THE TRIAL COURT DID NOT RULE ON THIS ARGUMENT IT IS NOT PRESERVED FOR APPELLATE

REVIEW And WAS NOT Addressed.

THE PETITIONER SUBMITS THAT IT WAS ERROR FOR THE SOUTH CAROLINA COURT OF APPEALS TO MAKE FACTUAL DETERMINATIONS WHICH WAS NOT SUPPORTED BY THE RECORD ON APPEAL AND WHICH THE STATE FAILED TO Address AT THE TRIAL LEVEL. FOR THIS REASON THE PETITIONER PETITIONS FOR WRIT OF CERTIORARI.

{SUPPORTING FACTS}

THE COURT OF APPEALS IS IN ERROR FOR AFFIRMING THE TRIAL COURT THE COURT OF APPEALS OVERLOOKED THAT THE LOWER COURT DID NOT RULE UPON THE TOTALITY OF THE CIRCUMSTANCES REGARDING CONSENT, THE COURT OF APPEALS WAS IN ERROR FOR NOT APPLYING REASONABLE SUSPICION TO THE 2ND SEARCH

{PROBATIVE FACT}

THE FACTS SURROUNDING PETITIONER'S CASE IS THAT IT WAS AN UNLAWFUL detention And OFFICER GARDNER WENT ON A FISHING EXPEDITION denounced By THE SUPREME COURT IN SIKES 448 S.E. 2d 563

THE FOLLOWING INFORMATION IS RELEVANT TO THIS APPEAL

R. O. A. p. 113 L-14-15

R. O. A. p. 116 L-16-21

R. O. A. p. 123 L-1-25 - p. 124 L-3

R. O. A. p. 353 - p. 354 L-1-9

PETITIONER TESTIFIED HE KNEW HE Could REFUSE TO GIVE CONSENT.

SEE OPINION IN PRIOR CASE 27415

ERICK V. HEWINS V. STATE HEARD MARCH 18, 2014

DECIDE JULY 18, 2014

{PROBATIVE FACT}

THE FOLLOWING INFORMATION IS RELEVANT TO THIS APPEAL

R.O.A. p. 155 - L-1-25 - p. 160 L-1-16

COUNSEL PRESERVED PETITIONER'S ISSUES CITING THE FOLLOWING PRECEDANTS AND FACTS;

R.O.A. pg. 155 - p. 160

BOTH CARS WERE BLOCKED IN

WHEN THAT DETENTION OCCURED, THAT IS AN UNREASONABLE DETENTION, THE PETITIONER SHOULD BE FREE TO LEAVE, THE PETITIONER WAS NOT PHYSICALLY FREE TO LEAVE THE OFFICER PULLED PETITIONER OUT OF THE CAR FOR HIS OWN SAFETY.

{PROBATIVE FACT}

TO FURTHER SHOW PETITIONER ISSUES WERE PROPERLY PRESERVED SEE R.O.A. p. 160 L-15-16

THE COURT STATED: YOUR ISSUES ARE SO NOTED FOR THE RECORD

SEE/CAD REPORT IDENTIFICATION NO. 090162139

THIS (CAD REPORT) WILL SHOW OFC. GARDNER AND OFC. HALL COMMITTED PERJURY. THE TESTIMONY CONCERNING OFC. HALL COMING BACK AND FORTH TO MY VEHICLE WAS UNTRUE/FRIVOLOUS PLEASE DIRECT ATTENTION TO (CAD REPORT) WOULD SHOW MY IDENTIFICATION WAS RETURNED AT 12:37 AM MATCH THAT WAS PUT IN EVIDENCE AT TRIAL BY MR. CHASE, WHICH SUPPORTS MY CONTENTIONS. JESSICA LERER OMITTED THE (CAD REPORT) FROM RECORD ON APPEAL FOR OBVIOUS REASONS THE SAME REPORT SHOWS SGT. COTHRANS 3rd BACK-UP OFFICER CONFIRMS MY STORY AND WITNESSED THE SEARCH.

{PROBATIVE FACTS}

FURTHERMORE THE PETITIONER TOOK THE STAND LATER AND TESTIFIED THAT FOR THE RECORD IN 2010 THAT HE KNEW HE COULD REFUSE TO GIVE CONSENT TO SEARCH R.O.A. pg. 353-354 L-1-9

{STATE V. FORRESTER} 541 S.E. 2d 837 (S.C. 2001)

{SIMS V. STATE} 743 S.E. 2d 97, 98 (1999) ALTHOUGH KNOWLEDGE OF ONE'S RIGHT TO REFUSE A SEARCH WITHOUT A WARRANT IS A FACTOR TO BE CONSIDERED IN DETERMINING WHETER THE CONSENT GIVEN WAS FREELY AND VOLUNTARILY GIVEN.

SEE {ILLINOIS V. BROWNLEE} 713 N.E. 2d 556 (1999)

{STATE V. KEARNS} 807 F. 2d 903 (1994)

THE POLICE ARE NOT REQUIRED TO INFORM THE PERSON TO BE SEARCHED OF HIS OR HER RIGHT TO REFUSE CONSENT, BUT THEIR FAILURE TO SO INFORM IS A FACTOR TO BE CONSIDERED IN DETERMINGING WHETER CONSENT TO A SEARCH WAS FREELY GIVEN VOLUNTARILY. THE OFFICERS IN THE CASE AT BAR OFC. GARDNER TESTIFIED THAT HE DID NOT INFORM PETITIONER OF ANY CONSTITUTIONAL RIGHTS. R.O.A. pg. 164 L-18 GARDNER TESTIFIED I GAVE HIM CONSENT TO RETRIEVE THE ITEMS R.O.A. p. 35 L-1-2 PETITIONER STATED WHY IS YOU PUTTING YOUR HANDS IN MY POCKET R.O.A. pg. 76 1-6 MS. MEGAN NEWMAN TESTIMONY CORROBORATED PETITIONER ENCOUNTER TO SUPPORT THE CONTENTION THAT HE DID NOT VOLUNTARILY CONSENT TO A SEARCH MOST IMPORTANTLY PETITIONER OWN TESTIMONY IS THAT FOR THE RECORD IN 2010 THAT HE KNEW HE COULD REFUSE TO GIVE CONSENT TO SEARCH R.O.A. 353-354 AND PETITIONER DID NOT CONSENTED.

THE COURT OF APPEAL IS IN ERROR FOR FINDING THIS WAS A CONSENT TO SEARCH DESPITE THE FISHING EXPEDITION OFC. GARDNER TOOK

ON FROM THE OUTSET. FINALLY NOT FINDING OFC. GARDNER EXCEEDED THE SCOPE OF CONSENT. Judge WELMAKER STATED TO PETITIONER'S LAWYER THAT HIS ARGUMENT IS WELL STATED AND NOTED THE RECORD R.O.A. pg. 160 1-15-16

RESPECTFULLY SUBMITTED
S. Erick Hawkins
PRO'SE PETITIONER

{CONCLUSION}

THE PETITIONER SUBMITTS THAT THE PETITION FOR WRIT OF CERTIORARI SHOULD BE GRANTED FOR THE FOLLOWING REASONS; THE COURT OF APPEALS ERRED BY MAKING A DISPOSITIVE FACTUAL DETERMINATION WHICH WAS UNSUPPORTED BY THE RECORD ON APPEAL AND WHICH THE STATE FAILED TO RAISE AT TRIAL LEVEL AND THE COURT OF APPEAL LACKED JURISDICTION TO ENTERTAIN WHEN PETITIONER DENIED GIVING CONSENT AND THE COURT OF APPEALS OVERLOOKED THAT THE LOWER COURT DID NOT RULE UPON THE TOTALITY OF THE CIRCUMSTANCES REGARDING THE CONSENT, MOREOVER THE COURT OF APPEALS RECOGNIZED THAT THERE IS NO OPINION FROM THE LOWER COURT AS TO THE SCOPE OF ANY CONSENT. IN ITS OPINION THE COURT OF APPEALS STATED PLAINLY THAT THE TRIAL COURT DID NOT MAKE ANY FINDINGS AS TO WHETER SCOPE OF CONSENT INCLUDED SECOND SEARCH / REACHING INTO POCKET, THE COURT RELIED UPON OFFICER GARDNER BARE ASSERTION CONCERNING CONSENT AND THIS RESULTED IN A COMPLETE MISCARRIAGE OF JUSTICE AND CERTIORARI SHOULD BE RESPECTFULLY GRANTED.

RESPECTFULLY SUBMITTED

s Erick Hewins

PRO'SE PETITIONER

In the State of South Carolina
In the Supreme Court

RECEIVED
APR 20 2015
SC SUPREME COURT

Appeal from Greenville County
The Honorable G. Edward Welmaker, Cir. Ct. Judge
App. Case No. 2013-000224
Op. No. 2014-UP-478 (12/14)

The State, Respondent,

v.

Erick Hewins, Petitioner.

Affidavit
Proof of Service

I, Erick E. Hewins, certify that I have served the Petition for Writ of Certiorari upon the below list by placing same in the McCormick CI Mail Room, postage prepaid, and certify that all parties required by Rule to be served have been served:

The Hon. Daniel E. Shearhouse, Clerk
P.O. Box 11330
Columbia, SC 29211

Asst. Atty. Gen. Mary Williams
P.O. Box 11549
Columbia, SC 29211

Sworn to and subscribed before me
this 15 day of April, 2015.

S/ Erick Hewins
Affiant

Notary Public
My Commission expires: 12/16/2019

LEGAL MAIL
MAIL ROOM

RECEIVED
APR 20 2015
SC SUPREME COURT

Erick E. Hewins
McCormick CI
386 Redemption Way
McCormick, SC 29899

April 15, 2015

The Honorable Daniel E. Shearhouse, Clerk
S.C. Supreme Court
P.O. Box 11330
Columbia, SC 29211

Re: State v. Hewins, Op. No. 2014-UP-478

Dear Mr. Shearhouse:

Enclosed you will find my Petition for Writ of Certiorari for filing in your office. Also, enclosed is the Appendix in this case.

The Clerk, Court of Appeals has been notified, and a copy of the Petition has been served upon Respondent.

With kind regards,

Yours truly,

Attachment
Enclosures

LEGAL MAIL
MAIL ROOM