IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED
JUN 29 2015
S.C. SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF GENERAL SESSIONS
THE HONORABLE G. Edward Welmaker
Circuit Court Judge

OPINION NO.: 2014-UP-478 Filed 12/03/14

THE STATE — RESPONDENT

V.

ERICK E. HEWINS — PETITIONER

REPLY PETITION FOR WRIT OF CERTIORARI

PRO SE

OTHER COUNSEL OF RECORD:
ATTORNEY GENERAL ALAN M. WILSON
ASST. ATTY GEN: MARY S. Williams
ASST. ATTY GEN: SUSANNAH R. COLE
BAR Number 68383

ERICK E. HEWINS
McCORMICK CI
386 Redemption Way
McCormick SC. 29899

INDEX

Certificate of Petitioner

Petitioner Certifies that the Petition For Rehearing was made and finally ruled on by the Court of Appeals on February 24, 2015. Motion For Expansion of time was granted until April 15, 2015.

Questions Presented

1. Did the Court of Appeals err when it made a dispositive factual determination which was unsupported by the Record on Appeal, and which the state Failed to raise at trial level?
2. Did the Court of Appeals err when it affirmed the trial Court's Failure to Suppress evidence seized by officer Gardner Following his unlawful Fourth Amendment Seizure of Defendant because officer Gardner Failed to articulate any reason that he reasonably suspected that Defendant was engaged in criminal activity at the time officers saw Defendant sitting in his vehicle?
3. Did the Court of Appeals err when it affirmed the trial court's finding officer Gardner had reasonable suspicion sufficient to conduct a Terry Frisk where officer Gardner Failed to offer Support For his belief that Defendat was armed and dangerous and where officer Gardner allowed to much time to elapse between asking Defendant to exit his vehicle and actually conducting the Frisk?

4. Did the Court of Appeals err when it affirmed the trial Court's failure to suppress evidence seized by officer Gardner during a second, unlawful search of Defendant?

5. Did the Court of Appeals err when it affirmed the trial courts admitting evidence where the state failed to properly identify by testimony or sworn statement the evidence custodian initially responsible for retrieving or the condition of the evidence when it was logged into property and evidence?

Statement of the Case

This case arises out of an unlawful Fourth Amendment seizure and subsequent non-consensual search of the defendant's pocket twice without a warrant, more than (12) twelve minutes after the officer's contact with Petitioner and the search. The officers were engaged in no more than a routine patrol of a location [Clarion Inn] where crime had rapidly, and significantly declined over the previous year and a half. (Trial Transcript pg. 60 lns. 7-23)

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[1] Petitioner thinks it is instructive that Court of Appeal states on page 6 of its opinion that if Gardner had Hewins consent to conduct the first Reach into the pocket the scope of the consent granted could have been limited to determing what the lump was" This statement illustrates that the question as to consent was never answered by trial court, and is an inappropriate basis for Court of Appeals decision. State vs. Brockmeyer 406 S.C. 324 336 n. 8, 751 S.E2d 645, 651 n.8 <2013> it is not preserved for appellate Review (2) and we do not Reach it.

Petitioner's car was backed into a parking space in the lot of the Clarion Inn at 12:36 a.m. Beside was another car with two females inside one of the females petitioner was dateing. It appeared to the officer that the occupants of the two(2) vehicles were doing nothing more than Speaking to one another (Trial Transcript pg 46 Ins 1-20) Officer Gardner testified the occupants "were just sitting there having.... they appeared to have a meeting for some Reason (Trial Transcript pg. 46 Ins 9-10) Conspicuously absent from officer Gardner's testimony is a description of any behavior of any occupant of any car which appeared Criminal or suspicious before Seizing them. Officer Gardner and Hall parked their patrol car directly behind and horizontal to, the two(2) parked vehicles. (Defense Exhibit 2.) Petitioner and witness Megan Newman both testified that neither of their vehicles would be able to leave without hitting the patrol vehicle. (Trial Transcript pg. 109 Ins 13-17 pags 119-120 Ins 15-25, Ins 1-24) In fact, OFC. Gardner testified that he was blocking petitioner. (Trial Transcript pg. 66 Ins 19-24) cf Robinson v. State 407 S.C. 169, 754 S.E.2d 862 (2014) Where officer's vehicle blocked Petitioner's preventing if from driving away, a Reasonable person in Petitioner's position would not have felt free to leave. Gardner testified that, had defendant attempted to leave he would have pursued him (Trail Transcript pg. 210 Ins 1-15.)

Officer Gardner exited the patrol car and come to stand between the defendant's and the other car to enable him to see all individuals (Trial Transcript pg 69 lns 23-25 pg. 70 lns 1-6 pg. 109 lns 15-21.) officer Gardner testimony indicated he did not see any occupant's hands close together, observe any drugs in plain view, nor did he observe any odors of either drugs or alcohol, any guns, money or drug paraphernalia, or any other indications of criminal activity. Before backup arrived, Petitioner Relayed to officer Gardner that he was at the [Clarion Inn] to visit his 'baby mama", who was in room 237. (Trial Transcript pg. 95 lns 10-25 pg. 96 lns 1-3)

More than twelve (12) minutes after officers Gardner and Hall seized Petitioner, Officer Cothran arrived. Officer Gardner and Petitioner were standing outside their Vehicles. When officer Cothran got out of his Vehicle and walked up to officer Gardner and Petitioner, Officer Gardner explained the basic situation to Officer Cothran, including Petitioner Reason for being in the Clarion Inn parking lot (Trial Transcript pg. 97 lns 19-25, pg. 98 lns 1-25 pg. 99 lns 1-8.)

Officer Cothron went to check on these statements with the front desk. After officer cothran had Verified Petitioner's story and was comming back to Petitioner's Vehicle, he saw officer Gardner Perform a Pat-down of Petitioner (Ibid)

more clearly, petitioner had been seized For more than twelve (12) minutes and was out of his car before officer cothran arrived. officer Cothran packed his patrol car and secured it before getting out and Walking over to where officer Gardner and Petitioner Were standing. officer Gardner took time to explain things to officer Cothran and ask him to go to the hotel's front desk to verify Petitioner's story of Why he was there. officer Cothran Walked to the front desk, upon explanation officer cothran waited while the desk clerk looked up the room information For 237. As the clerk recited it officer Cothran wrote it down. He then went to room 237 to meet with the occupant. officer Cothran then walked to his patrol car and performed a Computer search on room 237 occupant. After Verifying there was no warrants, officer cothran got out of his Vehicle and began walking to where officer Gardner and Petitioner Were still standing. (Trial transcript pg. 146-147) Then is When he saw officer Gardner Perform a body search pat-down on petitioner

Trial Transcript pg. 95 lines 10-25, pg. 96 lines 1-25 pg. 97 lines 1-25 pg. 98 lines 1-25. pg. 99 lines 1-25 pg 100 lines 1-12 See also CAD Report Exibit 1). Officer Gardner testified he was allegedly concerned for his personal safety, due to what may have been in Petitioner's left pocket, even while Petitioner was still sitting in his own vehicle (Trial Transcript pg. 51 lns 12-17) This is obviously before Officer Cothran arrived as the third(3) backup officer to have arrived on the scene, while Petitioner casually stood outside his car. (Trial Transcript pg. 146-147)

Officer Gardner testified that, during the pat-down he felt a hard lump on the outside of defendant's pocket. He Reached into the left pocket and Removed that hard lump. The hard lump turned out to be a wad of cash. With there no longer being a lump in Petitioner's left pocket, Officer Gardner Reached back inside and Retrieved four (4) small pills about the size of a nickle, Combined. The pills were later discoverd to be a Schedule IV substance. After finding the pills and placing Petitioner under arrest, Officer Gardner called a tow truck and, in the process of inventorying the vehicle prior to tow, found a large Rock of what appeared to be Crack Cocaine as well as several smaller Cookies.

This case came before the Greenville County Circuit Court G. Edward Welmaker, on January 13, 2013 on indictments for trafficking in excess of 10 grams of Cocaine base, and possession of a Schedule IV Controlled Substance. After swearing in the jury, Judge Welmaker heard defendant's motion to suppress. Defendant counsel argued that there were two(2) distinct 4th Amendment issues presented by this case, both of which precluded admission of the drugs. (Trial Transcript pg. 140-148 lns 1-16) First, defense Counsel argued that from the moment officers Gardner and Hall pulled in front of Petitioner's vehicle in an otherwise empty parking lot, the officers had initiated an investigatory detention a fourth(4) Amendment "seizure" and that this seizure was not based upon reasonable articulable suspicion that the defendant was actually engaged in criminal activity <Trial Transcript pgs 142 lns 18-25 and 143 lns 1-6> Secondly, defendant's counsel argued that officer Gardner failed to support with sufficient articulable facts that it was Reasonable to believe Officer Gardner actually felt Petitioner may have been armed or otherwise a threat to the personal safety of the officers or the general public. <Trial Transcript pg. 146 lns 1-18> Counsel Relied upon several factors in his Argument to the trial judge, Especially the length of time which passed between Officer Gardner asking Petitioner to step out of his vehicle

and when officer Gardner initiated the pat-down much later. <Trial Transcript pg. 147 lns 9-25, pg. 148 lns 1-14> Petitioner's Counsel challenged Officer Gardner's going back into Petitioner's pocket a Second(2) time, Which the Court of Appeals stated, "We believe the facts Raise the question of whether Gardner's Second(2) Reach Was justified by consent..." <Order, op No, 2014-up-478 pg. 6 pg 2 lns 1-2> Despite these Arguments Judge Welmaker denied Petitioner motion to suppress and the most Conspicuous factual ERROR by the judge was his Reliance upon the [sic] fact that the frisk took place within the time period when backup was coming. <Trial Transcript pg 162 lns 20-22> though officer Cothran's testimony was that the pat-down occurred much later after he arrived.

The Court indicated it Ruled upon both issues when it stated Petitioner Counsel was "noted for the Record" <Trail Transcrip pg 160 lns 15-25.> Following the Court's Ruling the jury heard opening statements and was than Released for Petitioner motion to exclude Evidence based upon the State's failure to properly present a chain of custody Prior to trial, Petitioner made a Rule 6, South Carolina Rules of Criminal Procedure <S.C.R. Crim.P.> demand for the appearance of all witnesses in the chain of custody. The State however failed to present the initial evidence Custodian or his/her Sworn Statement who Retrieved the evidence

dropped of by Officer Gardner following Petitioner arrest. In absence of either the person or his sworn statement, Petitioner argued the state had failed to identify the condition of the evidence at the time this person retrieved it. Rather than following the mandatory nature of Rule 6, S.C.R. Crim P., The Court improvised a new burden of proof imposed upon the Petitioner to show ill-motive bad faith, or tampering <Trial Transcript pg. 181 lns 6-24> Upon Petitioner's failure to meet this newly devised standard, The Court denied motion to exclude. Upon a jury verdict of guilt for possession of a controlled substance as well as Trafficking in greater than 10 grams of cocaine base Petitioner was sentenced to ONE(1) and twenty-five years Consecutively This petition follows.

The Solicitor Ms. Monts and Attorney General office are Misleading the Courts. That I was providing false information Officer Hall testified that the information that she got from petitioner in fact turned up in their computer as Truthful <Trial Transcript> pg. 245 lns 9-12.)

Arguments

1. The Court of Appeals should not have made a dispositive factual determination which was unsupported by the Record on Appeal and which the state failed to raise at trial level.

a. The trial court never made a determination on Voluntary consent, nor did the state present any case in support of voluntary consent. There was no Ruling by Judge Welmaker that Petitioner voluntarily consented to a search. The State did not raise this as an argument for determination nor did the state offer any additional evidence in support of this argument. The defendant disputed consent Petitioner took the stand and denied having provided consent <Record on Appeal pgs 75-76 ln 23> When asked if he, in any way gave consent Petitioner stated; "No Sir and for the Record, EVEN in 2010 I knew I had the Right to consent to a search or not to consent to a search. So I did not" <Trial Transcript pgs 353-354, lns 25, 1-2.> The State has the burden to demonstrate voluntariness of consent when disputed by the defendant State v. Provet 405 S.C. 101 113 749 S.E.2d 453 460 <S.C. 2013>

It is a question of fact to be determined by the trial Court. This he failed to do under Jackson, supra it was for trial Judge to first decide these discrepanies and conflicts, Ms Monts withdraw her consent charge <Trial Transcript pg 372 lns 1-9> When the trial judge makes no ruling to detefmined whether alleged consent was voluntarily given before permitting jury to her alleged consent denied me a fair trial<See Trial Transcript pg. 370 lns 20-25. fourteeth (14) Amendments is a Rule that a jury is not to hear unless and until the trial Judge has determined that it was freely and voluntarily given. Trial Judge error in letting the juror hear statement without making a Reliabale decision violating Jackson vs Denno, Supra. Petitioner should have been granted Requested Jury charge Regarding consent <Trial Transcript pg. 336 lns 2-17 pgs. 337 lns 4-22 pg. 366 lns 8-20. Appeallant lawyer Ms. Jessica Lerer failed to Raise this as a issue for Personal Reason. Petitioner and Trial lawyer ask attorney Jessica Lerer of STrom law firm to address this issue.

b. The Court of Appeals decision places the burden on Petitioner to challenge Consent despite the clear mandate in Provet supra that the burden Rests with the State to prove voluntary Consent when, as in the trial court Consent in general <not just voluntary consent> was challenged. <Trial transcript pg 113-114 ll.1-23.> Consent is disputed by the Petitioner. The Court of Appeals stated in its opinion now being challenged that "We are troubled by Gardner's 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> The Court of Appeals Relied upon no more than the Mere assertion by Officer Gardner that consent was granted. There was no other Evidence to corroborate Consent EVEN though at the time the Terry frisk occurred there was a total of five(5) officers on the scene see Cad Report Exhibits 1. Petitioner testified he ask Officer Gardner Why was he putting his hand in my pocket <Trial Transcript pg. 114 lns 6 which was corroborate by witness Megan Newman. Petitioner testified he knew his Rights in 2010 <Trial Transcript pg 353- lns 25 354 lns 1-9.> Officer Gardner testified he did not advise Petitioner of any Constitutional Rights <Transcpt pg 224-225 lns 19-225 lns 3-6> Trial Court has shifted burden from State to Petitioner

Requiring him to prove he did not grant consent

C. The Court of Appeals declined to determine whether the arresting officer reasonably believed that Petitioner had contraband upon him based upon the appellate Court's erroneous findings of consent. On page 5 of the opinion, the Court of Appeal Refused to determine whether the arresting officer had Reasonable Suspicion that Petitioner had contraband in his pocket because "Gardner testified he Received Hewins' consent to Reach into the pocket. The trial Court never made a determination on Voluntary consent. Provet supra the existence of Voluntary Consent is determined from the totality of the Circumstances, When petitioner disputes the Voluntariness of the Consent the burden is on the state to prove the Consent was Voluntary. Rather the entire basis for this opinion on Consent Rests solely upon Gardner's testimony which Petitioner Refuted upon the stand. Mendenhall, Supra Court has Rejected finding of consent solely on acquiescence to the officers' wishes to establish the Requisite consent.

[4] To the extent that OFFICER Hall provided any testimony Regarding Appellant's actions, her testimony cannot be the basis for OFFICER Gardner's Reasonable Suspicion because she did not convey this information to Ofc. Gardner < Trial Transcript p. 91, ll. 15-25, p. 92 ll 1-9.)

2. The Court of Appeals should not have held the trial court did not ERR by failing to suppress evidence seized by officer Gardner following his unlawful seizure of petitioner because officer Gardner failed to articulate any Reason that he Reasonably suspected Petitioner was engaged in criminal activity at the time the officers saw petitioner sitting in his vehicle. The point in time Relevant to whether the initial seizure of petitioner is when Officer Gardner pulled his vehicle to block the petitioner from leaving <Trial Transcript> pg. 66 Lines 19-24.) In the instant case, Officer Gardner pointed to the parked position of petitioner vehicle as one Reason that he approached. Specifically, officer Gardner testified that backing into a spot violated a city ordinance, and was a ticketable offense. Once Gardner approached petitioner's vehicle, however it was immediately clear that Gardner was not concerned about how petitioner vehicle was parked. Officer Gardner did not testify that he ask Petitioner a single question about the position of the vehicle, nor did officer Gardner attempt to ticket petitioner for this violation. Because officer Gardner's underlying traffic stop was improper, every question thereafter exceeded the limited scope and duration of questions allowed under Terry and its progeny. Anything subsequent to that is irrelevant.

Officer Gardner testified that the Clarion Inn, where these incidents occurred, is "a very high crime area" where he has "made multiple drug trafficking cases and numerous prostitution cases". (Trial Transcript, pg. 44, lns. 19-25.) However, the "Incidents by Street" report given him to review showed he had made only one (1) prior arrest at that location since January 1, 2008, and that was on December 8, 2009, prior to the instant case. (Trial Transcript, pg. 63, lns. 2-16.)

Officers Gardner and Hall pulled into the Clarion Inn parking lot and saw two vehicles parked side by side whose occupants appeared to be talking. Without more information, the officers parked behind those vehicles so that, according to the testimony from the defendant and witness Megan Newman, the defendant would be unable to leave from his spot without hitting the patrol car. A reasonable person would have believed he was not free to leave. State v. Rodriguez, 323 S.C. 484, 491-492, 476 S.E.2d 161, 165; U.S. v. Mendenhall, 446 U.S. at 554, 100 S.Ct. at 1877 (1979).

The underlying purpose for a traffic stop must be lawful. State

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U. Butler, 353 S.C. 387, 391, 577 S.E.2d 498, 502 (Ct. App. 2003). It is illegal if the stop goes beyond a legitimate scope ... unless the officer has a reasonable suspicion of a serious crime. State v. Tindall, 388 S.C. 518, 521, 698 S.E.2d 203 (2010), citing U.S. v. Sullivan, 138 F.3d 126, 131 (C.A.4 1998). "Reasonable suspicion" requires a particularized and objective basis that would lead one to suspect another of criminal activity. State v. Blassingame, 338 S.C. 240, 248, 525 S.E.2d 535, 539 (Ct. App. 1999).

Suspecting an area of high crime does not provide an objective basis to suspect anyone and everyone in that area is engaging in criminal activity. It requires more', which, at the moment Officers Gardner and Hall laid eyes upon, and decided to detain, the defendant, was not there.

From the outset, this detention was "the type of fishing expedition denounced by our Supreme Court in Sikes, 448 S.E.2d, at 563." State v. Rodriguez, 476 S.E.2d 161, 166 (S.C. App. 1996). State v. Woodruff, 544 S.E.2d 285 (S.C. App. 2001).

The seizure was unlawful, and the Court of Appeals erred by affirming the trial court's refusal to suppress evidence.

3. The Court of Appeals should not have held the trial court did not err when it found Officer Gardner had reasonable suspicion sufficient to conduct a Terry frisk where Officer Gardner failed to offer support for his belief that the defendant was armed and dangerous and where Officer Gardner allowed too much time to elapse between asking Defendant to exit his vehicle and actually conducting the frisk.

The officer must demonstrate he had a "necessary apprehension of danger to justify a pat-down search." State v. Butler, 353 S.C. 383, 392-93, 577 S.E.2d 498, 503. Officer Gardner testified he believed something to be cautious of existed in Petitioner's pocket, but waited until the defendant was out of the car, three (3) back-up officers had arrived, the third officer (Cothran) had used extensive time verifying the occupant of room 237 and was returning, before he ever made an effort to ensure the safety of himself and the other officers. (See, pgs. 4-6, above) SEE TRIAL TRANSC PAGE 156 L.16-157 L.19

Obviously, there was no reasonable suspicion to justify a Terry search.

4. The Court of Appeals should not have held the trial court did not err in failing to suppress evidence seized by Officer Gardner during a second unlawful search.

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The Court of Appeals held in this case, "While we believe the facts raise the question of whether Gardner's second reach was justified by consent, we find the issue is not preserved. However, the issue was preserved, as will be shown.

Defense counsel argued against the legality of the second reach into Petitioner's pocket as exceeding the scope of any alleged consent. At the conclusions of his arguments, the trial judge stated:

> "Certainly, your argument is well stated and noted for the record." (Trial Transcript, pg. 160, lns. 15-16.)

It is not necessary for more words to understand the court took judicial notice of the issue and ruled against Petitioner. That preserves the issue for appellate review, and the Court of Appeals erred.

Officer Gardner testified that, when he conducted the Terry frisk, he felt a hard lump in Petitioner's pocket. He reached into the pocket and retrieved the lump, which was a wad of cash. He reached a second time into the pocket; because, he could have had anything in his pocket. (Trial Transcript, pg. 74, lns. 4-11.)

Approximately 20 minutes after Officers Gardner and Hall detained Petitioner, more than eight minutes of standing outside his vehicle

talking with the officers, and only moments before, the large lump, which was in the pocket and which had bothered Officer Gardner while the Petitioner was still inside his car, was removed to reveal money, Officer Gardner was not satisfied with his findings and "went fishing" in violation of Sikes v. State, 323 S.C. 28, 448 S.E.2d 560 (1994). All which was retrieved during the second search was four (4) small pills, which, taken together, were approximately the size of a penny or nickle.

The Court of Appeals erred by finding that their concerns over the second search were unreviewable due to not having been preserved, and this Court should overturn the conviction.

5. The Court of Appeals should not have held the trial court did not err in admitting evidence where the state failed to properly identify by testimony or sworn statement the evidence custodian initially responsible for retrieving or the condition of the evidence when it was logged into property and evidence.

In its order, the Court of Appeals affirmed the trial court's admitting evidence, citing State v. Hatcher, 392 S.C. 86, 91, 708 S.E.2d

750, 753 (2011), saying:

> "The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. ...
>
> "'An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.'"

This case presents both a lack of evidentiary support and being controlled by an error of law.

First, the error of law is the trial court's belief that the rules of evidence regarding the chain of custody do not arise from Rule 6 of the South Carolina Rules of Criminal Procedure (S.C.R.Crim.P.) Rule 6, S.C.R.Crim.P., requires a sworn statement from each person having custody of the evidence, or the person must be in court to testify. Rule 6 also specifies the statement must contain a sufficient description of the substance or its container to distinguish it, and that the substance was delivered in substantially the same condition as when received.

This is the standard. Introducing evidence without sufficient affidavit or the person violates the rules of criminal procedure.

When the state establishes the identity of every person in the chain through their own sworn statements, the question goes to credibility, rather than admissibility. State v. Taylor, 360 S.C. 18, 598 S.E.2d 735, 737-38 (Ct. App. 2004). Conversely, when there are no sworn statements or persons to testify, the question is solely admissibility, and the chain of custody has not been established by the state. The evidence is admissable.

The state attempted to establish Israel Flowders as the initial evidence custodian, but there was no sworn statement. Mr. Flowders did not testify.

Three (3) witnesses who were not the initial evidence custodian testified, but none of them could identify Mr. Flowders, nor could these witnesses verify the condition of the evidence when it arrived at the Department of Property and Evidence. (Trial Transcript, pgs. 277-289, pgs. 292-296). It was established that the Department's normal course of business requires affidavits to verify the identity of custodians, and the condition of the evidence. (Trial Transcript, pg. 285, lns. 1-22.) None of this was done.

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By Rule 6, the only credible evidence is sworn statements, if the custodian is not testifying. Anything less, the identity of the custodian is not legally established. "Custodial signatures on an evidence bag fail to establish an adequate chain of custody where the custodians do not provide testimony under oath or produce a sworn statement pursuant to Rule 6(b), S.C.R.Crim.P." State v. Chisolm, 355 S.C. 175, 584 S.E.2d 401 (Ct. App. 2003).

In State v. Taylor, 360 S.C. 18, 598 S.E.2d 735 (Ct. App. 2004), the state established the chain of custody via affidavit, as proscribed by Rule 6(b), S.C.R.Crim.P., but Defendant objected. Taylor announced the question went to credibility rather than admissibility only after the identities of every person was established through sworn statements. 360 S.C. at 738, 598 S.E.2d at 737-738.

Because the state failed to identify the single most important evidence custodian in this matter, and further failed to identify the condition of the evidence at the time it was logged in, the Court of Appeals erred when it affirmed the lower court admitting the evidence.

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Conclusion

For the Reasons described herein, The Court of Appeals erred by making Sua Sponte factual determinations without a scintilla of evidence, by affirming the Trial Court's failing to suppress evidence seized in violation of fourth(4) Amendment rights against unlawful searches and seizures, And affirming the trial court admitting evidence in violation of Rule 6, S.C.R. Crim P. The Trial Judge violated petitioner's fourteenth Amendment Rights to a fair trial Jackson, supra Jury is not to hear unless and until the trial Judge has determined that it was freely and voluntarily given. The Court of Appeals and Trial Court should be reversed and remanded, and for any other such Relief as deemed appropriate and just here in this case has been a Miscarriage of Justice Prosecutor has an obligation to the Courts <including this court> to create an adequate Record.

Respectfully submitted

Erick Hewins

Erick E. Hewins, Pro Se

McCormick CI

386 Redemption Way

June 25, 2015

Dated

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JUN 29 2015

S.C. SUPREME COURT

STate of South CaroLina

IN THE SupREME Court

CERTIORARI to Richland County

Honorable G. Edward Welmaker, Circuit Court Judge

op. No. 2014-up-478 < S.C. ct App. Filed DECEMBER 23, 2014

Appellate Case No. 2015-000595

The state — Respondent

V

ERick E. HEWins — PetitioNER

PROOF of SERVICE

I, ERick E. HEWins CERTify that I have SERVED the within Reply Petition for WRit of CERTIORARI by depositing two copies of the same in the United STates mail, postage prepaid, addressed to: ALON WILSON

MARY LEddon

SUSANNAH COLE

Post office Box 11549

Columbia, S.C. 29211

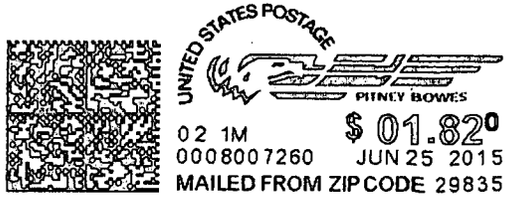
I further CERTify that all parties REQUIRED by Rule to be SERVED have been SERVED This 25 day of JUNE, 2015

ERick Hewins

PRO SE 297728

ERick HEWins-297728

McCormick Correctional Institute
386 Redemption Way
McCormick, SC 29899



THE SUPREME COURT of South Carolina
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Columbia, South Carolina 29211

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