STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

J. Derham Cole, Circuit Court Judge

Opinion No. 2015-UP-476 (S.C. Ct. App. filed 10/7/2015)

11-GS-42-01833; 12-GS-42-06339

THE STATE,

RESPONDENT,

V.

JON ROSEBORO,

PETITIONER

APPELLATE CASE NO. 2013-000685

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS

BENJAMIN JOHN TRIPP
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR PETITIONER.

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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on November 19, 2015.

QUESTION PRESENTED

Whether the trial judge erred in denying Petitioner's motion to dismiss charges stemming from resisting arrest where the arresting officer in his vehicle computer system happened upon a bench warrant for Petitioner while patrolling his neighborhood; where the warrant stemmed from a twelve-year old misdemeanor charge from a nearby town office and imposed a $111 fine; where the officer accosted Petitioner at his home; where Petitioner explained to the officer he had no understanding of the warrant; and where the officer disregarded Petitioner's repeated requests to see the warrant before forcibly arresting him and driving him to jail.

STATEMENT OF THE CASE

Patrolman Jason Hilton with Spartanburg County Sheriff's Department knows Petitioner John Roseboro so well that even while testifying during his criminal trial, Hilton talked about Petitioner on a first-name basis: "I went to the door of his residence at 310 Pine Ridge Road. I knew Jon, had spoken with him times in the past, knew him to live at that residence. Knocked on the front door and a friend of his came to the door." R. 63, ll. 2-5. On January 4th, 2011, Hilton had run a scan on his in-car computer for outstanding arrest warrants in his immediate area and saw notification of an outstanding bench warrant for Petitioner at his home address. R. 62, l. 10 – R. 63, l. 20. The warrant stemmed from a 1998 misdemeanor charge and resulting in a $111 fine. R. 148.

When Hilton arrived at Petitioner's home, Petitioner's mother and his friend were inside the residence, while Petitioner was in an outbuilding to the side and back of the house. R. 63, ll. 8 – 12. At some point, the four converged in the yard. Petitioner's friend, Christopher Carver, described what followed:

> Well, when officer Hilton got to the residence he was asked not to come in the yard without paperwork. He said he had a warrant for Mr. Roseboro's arrest, but he couldn't show the warrant.
>
> So they suggested, look, just go get the warrant, I'll wait on you to come back. No, he said that he had the right to be on the property, come on the property and take him off the property.
>
> She – Ms. Roseboro asked him several times to leave the property. And he wouldn't leave the property. He said that he had it on the computer that he had a warrant and he had the right to take him to jail.
>
> Come to find out it was over a hundred and eleven dollar bench warrant. I even offered Mr. Hilton – I said, look, I'll pay the hundred and eleven dollars. Let's just, you know, get the paperwork. Show something that that's what's happening and we'll pay the money and it'll be over and done with. And that wasn't good enough. He, you know, he wanted him to go to jail right then.

. . .

> . . . He had told Mr. Roseboro you wouldn't even be going to jail if it wasn't for your stupid ass mama. And, I mean, that was point blank. I was standing right beside him when he said it.
>
> And which to me was disrespectful you being a police officer. I know you. I've known you for twenty years. I've never seen you do that.

R. 124, l. 6 – R. 125, l. 8; R. 80, ll. 12 – 20.

After the arrest, the Spartanburg County grand jury indicted Petitioner for one count of opposing/resisting law enforcement officer serving process – assaulting officer engaged in serving process and one count of throwing of bodily fluids. R. 157 – R. 160. On October 4, 2012, On October 4, 2012, Petitioner appeared before The Honorable Roger L. Couch for a pretrial hearing. Roger Poole represented Petitioner and Russell Ghent represented the State. R. 1.

Petitioner moved to dismiss the charges, arguing law enforcement's failure to serve an arrest warrant until well after Appellant was placed in custody made the arrest unconstitutional. R. 3, line 17—R. 6, line 22. In a hearing on the matter, Officer Hilton testified the computer system in his patrol car displayed information from the warrant, but it did not show a photocopy of the warrant itself. R. 10, lines 1-3. He said he did not retrieve the warrant or a photocopy of it because "[a]s a means of regular patrol, it's oftentimes not feasible to obtain warrants and put them in hand and, at the same time, be diligent in serving them. And I knew Mr. Roseboro to live there." R. 16, lines 2-5. Petitioner then testified, describing how Hilton came onto his property to arrest him, and he asked whether Hilton had the warrant in-hand. Petitioner told Hilton, "You need to go get the warrant and come back. And I'll be here." R. 24, lines 6-12.

In an order denying the motion issued on October 19, 2012, Judge Couch first stated that under *State v. Grate*, 310 S.C. 240, 242, 423 S.E.2d 119, 120 (1992) and *State v. Sims*, 304 S.C. 409, 405 S.E.2d 377 (1991), an officer may make a warrantless arrest for a misdemeanor without a warrant in hand if the officer knows a valid warrant has been issued. However, he distinguished the case at hand, noting that Appellant was not aware of an outstanding warrant and asked to see it while at his residence. R. 46 – R. 50. Judge Couch then attempted to settle the issue on statutory grounds. Quoting S.C. Code Ann. § 17-13-50 (1976), he stated that an arresting officer must provide a copy of an arrest warrant on request. Next, he held that under *State v. Dowd*, 306 S.C. 268, 411 S.E.2d 428 (1991), a case involving a charge of resisting arrest, an arrest is considered an ongoing process finalized only when a defendant is properly confined. Therefore, because Appellant was served with a warrant upon his confinement in a jail cell, the arrest was valid under section 17-13-50. R. 46 – R. 50.

On March 21, 2013, Petitioner proceeded to trial before a jury and the Honorable J. Derham Cole. The same attorneys represented the parties. R. 51. Officer Hilton again told his version of the story, saying that he confirmed the warrant over the radio in Petitioner's presence, told Appellant the warrant was from Duncan City, and instructed Petitioner he had to go with him. R. 65, l. 4 – R. 66, l. 6. Hilton could not provide any other details about the warrant. When asked whether he knew that the warrant was twelve years old, he did not recall looking at that information, but he admitted it was accessible. R. 79, l. 20 – R. 80, l. 11. While arresting and transporting Petitioner, Hilton claimed Petitioner said he had tuberculosis and attempted to cough on him. R. 67, l. 12 – R. 71, l. 11.

After Hilton, the State called Sergeant Ted Beatty with the Spartanburg County Sheriff's Office. He testified on cross-examination that in the case of an arrest of an individual on his own

property, "[i]f the warrant's physically in possession of an officer in the warrant office, it's always been policy we could make the arrest." R. 89, lines 1-3. He was then asked if he thought residents of the county understood that policy, but the State objected. Judge Cole sustained the objection, saying, "It doesn't matter what they think." R. 89, lines 4-8.

Petitioner appeared again and testified in his defense, saying that he asked to see the warrant because he was not aware of it: "But he claims that warrant, which was dated 1998 . . . to this instant don't have any – supposedly I pled guilty in absentia and had a warrant. So I said, will, I don't have – I never – I wasn't there in 1998. As a matter of fact, it wasn't me, you know." R. 101, ll. 5-17. He also described how his elderly mother was upset with the situation. "And she says, I've lived here in the South. My mother's seventy-nine years old. I'm pretty sure she's had something to do with the law before. She's had – She's never been to jail, you know, but she's seen enough evidence of what goes on."[1] R. 102, ll. 1-5.

Petitioner testified that Hilton never told him for what offense was he under arrest. He also heard Hilton say that he would not be going to jail if it were not for his stupid mother. R. 102, ll. 6-15. Petitioner eventually put his hands behind his back, and Hilton shoved him forward through the front gate. R. 102, lines 16-24. Petitioner said he told Hilton he was recovering from a severe cold, which was causing his coughing. Hilton overreacted: "When we get to the car now, . . . he turns me, slams me. He says he never touched me. He slammed me on the back of the car, my head on the back of the car . . . . He wants to put this hoodie on me. I'm telling him I can't breathe already." R. 103, ll. 3-10.

Christopher Carver testified as described before, and Petitioner's mother then appeared and corroborated Petitioner and Carver's version of the arrest:

> And I said, well, what do you want with Jon? And he said, I have a warrant for his arrest. And I said, where is your warrant? He said, I don't have it, but there is a warrant for his arrest.
>
> Of course, he came on in the gate. I asked him not to unless he had some paperwork. But he proceeded to come on in. And Jon came out from around the corner. And he said, Jon, I have warrant for your arrest. And I said, where is the warrant? And, of course, he kept on telling Jon that he had the warrant for his arrest.
>
> And he said, put your hands behind you. And he said, you're going to jail. If it hadn't been for your mama, you wouldn't be going. And I never understood that because I was only trying to protect my own property. I understand that you was safe on your property, that they would have to present some paper if they had a warrant.

R. 133, l. 13 – R. 134, l. 3.

At the conclusion of the trial on March 22, 2013, the jury found Appellant guilty on both counts. R. 51; R. 141, ll. 6-16. Petitioner renewed the motion to dismiss the charges based on the unconstitutionality of the arrest, but Judge Cole denied it once more. R. 143, lines 2-7. For the charge of throwing bodily fluid, Judge Cole sentenced Appellant to ten years imprisonment suspended to the service of two years, the payment of a 100 dollar fine, and two years of probation. R. 145, ll. 15-24. For the charge of resisting arrest, Judge Cole sentenced Appellant to one year of imprisonment to run concurrently. R. 145, l. 25 – R. 146, l. 1.

Petitioner timely appealed an filed a final brief with the South Carolina Court of Appeals on September 18, 2014. Petitioner argued the trial court erred in denying the motion to dismiss the charges because Hilton was unreasonable in handling Appellant's arrest and violated his Fourth Amendment rights. Final Brief of Appellant. On October 7, 2015, the Court of Appeals affirmed the convictions in an unpublished opinion, which cited *State v. Sims*, 304 S.C. 409, 418-19, 405

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[1] According to the South Carolina Department of Corrections website, Appellant is black.

S.E.2d 377, 382-83 (1991) and *State v. Grate*, 310 S.C. 240, 242, 423 S.E.2d 119, 120 (1992) for the rule that an officer makes a lawful arrest by acting pursuant to a valid warrant even if he does not have physical possession of it. Unpublished Opinion No. 2015-UP-476 (S.C. Ct. App. Oct. 7, 2015). On October 12, 2015, Petitioner filed a petition for rehearing, which the Court of Appeals denied on November 19, 2015.

ARGUMENT

THE TRIAL JUDGE ERRED IN DENYING PETITIONER'S MOTION TO DISMISS THE CHARGES AGAINST HIM BECAUSE THE RECORD SHOWS PATROLMAN HILTON WAS UNREASONABLE IN ARRESTING PETITIONER AT HIS HOME WITHOUT VERIFYING THE WARRANT AND THEREFORE VIOLATED HIS FOURTH AMENDMENT RIGHTS.

The trial judge erred in denying Petitioner's motion to dismiss the charges against him because the record shows patrolman Hilton was unreasonable in arresting Petitioner at his home without verifying the warrant and therefore violated his Fourth Amendment rights. The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV. A citizen has the right to resist an unlawful arrest. *State v. Grate*, 310 S.C. at 241-42, 423 S.E.2d at 120.

A. In the initial order denying Petitioner's motion, Judge Couch made a clear error in attempting to assess the reasonableness of Petitioner's arrest by conflating the concept of arrest for purposes of the Fourth Amendment with the term's statutory meaning under S.C. Code section 17-13-50.

In his order, Judge Couch made a clear error in attempting to assess the reasonableness of Appellant's arrest by conflating the concept of arrest for purposes of the Fourth Amendment with the term's statutory meaning under S.C. Code section 17-13-50. A full custodial arrest is the quintessential seizure of a person under the Fourth Amendment. *Atwater v. City of Lago Vista*, 532 U.S. 318, 360 (2001). Indeed, "[i]t must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person." *Terry*

v. Ohio, 392 U.S. 1, 16 (1968). In other words, as soon as the officer restricts the individual's interest in freedom of movement, Fourth Amendment protections apply.

In his order, Judge Couch relied on *State v. Dowd* for the proposition that an arrest is finalized only when a defendant is confined in a jail cell. The case is inapposite because the issue was the scope of arrest for purposes of a statute criminalizing resisting arrest. In such a case, the meaning of arrest would of course turn on the intent of the legislature. Implicit in the *Dowd* decision was that the legislature intended for any resistance until incarceration to support a charge of resisting arrest. Alternatively, in the case at hand, Petitioner's arrest was complete for purposes of the Fourth Amendment when Hilton accosted Petitioner at his residential property and instructed him that he was under arrest. Accordingly, Judge Couch erred in holding that even though Petitioner asked to see the arrest warrant when Hilton accosted him, his Fourth Amendment rights were not violated merely because he was provided an arrest warrant upon his eventual confinement in a jail cell.

B. The record shows Hilton was unreasonable in arresting Petitioner at his home on a twelve-year old, misdemeanor bench warrant because he repeatedly refused to provide Petitioner with information supporting the validity or existence of the warrant and instead forcibly removed him.

Hilton was unreasonable in arresting Petitioner at his home on a twelve-year old, misdemeanor bench warrant because he repeatedly refused to provide Petitioner with information supporting the validity or existence of the warrant and instead forcibly removed him. "[T]he Fourth Amendment's ultimate touchstone is 'reasonableness.'" *Brigham City, Utah v. Stuart*, 547 U.S. 398, 398 (2006). Whether a seizure is reasonable depends upon the facts and circumstances of each case. *Cooper v. California*, 386 U.S. 58, 59 (1967). *Accord McHam v. State*, 404 S.C. 465, 480, 746 S.E.2d 41, 49 (2013) ("'The touchstone of our analysis under the

Fourth Amendment is always "the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security."'" (quoting *Pennsylvania v. Mimms*, 434 U.S. 106 (1977))). Key to this inquiry is balancing the importance of the governmental interests alleged to justify the intrusion against the nature and quality of the intrusion on the individual's Fourth Amendment interests, including the extent of the intrusion. *Tennessee v. Garner*, 471 U.S. 1, 7 (1985).

The intrusion by the government into an area of private residence is of the gravest ilk. *See generally Camara v. San Francisco*, 387 U.S. 523, 529-30 (1967) ("'The right of officers to thrust themselves into a home is also a grave concern, not only to the individual but to a society which chooses to dwell in reasonable security and freedom from surveillance.'" (citations omitted)); *State v. Herring*, 387 S.C. 201, 209, 692 S.E.2d 490, 494 (2009) (holding Fourth Amendment protections of the home extend to outbuildings in the curtilage (citing *U.S. v. Dunn*, 480 U.S. 294 (1987))). The United States Supreme Court has not expressly decided the question of "[w]hether it would be unreasonable to refuse a request to furnish the warrant at the outset of the search when, as in this case, an occupant of the premises is present and poses no threat to the officers' safe and effective performance of their mission." *Groh v. Ramirez*, 540 U.S. 551, 562 (2004).

The primary function of the warrant requirement under the Fourth Amendment is to protect a citizen's privacy and security "by interposing, ex ante, the 'deliberate, impartial judgment of a judicial officer . . . between the citizen and the police.'" *U.S. v. Grubbs*, 547 U.S. 90, 99 (2006) (quoting *Wong Sun v. U.S.*, 371 U.S. 471 (1963)). This function in itself may be accomplished and, strictly speaking, a private citizen's privacy and security may be constitutionally safeguarded, when a magistrate issues upon probable cause a warrant setting

forth the particular places to be searched or the particular items or persons to be seized, even though the citizen is entirely uninformed as to the warrant proceedings. *See, e.g., U.S. v. Bembry*, 321 Fed. Appx. 892 (11th Cir. 2009) (holding under the circumstances, arrest based on outstanding warrant, though not in officer's actual possession, valid because no express federal requirement exists that officer have warrant in hand or nearby when arresting suspect); *U.S. v. Cazares-Olivas*, 515 F.3d 726 (7th Cir. 2008) (holding under the circumstances, search based on magistrate's on-the-record determination of probable cause valid even though magistrate did not issue written warrant).

Nevertheless, an additional, "major function of the warrant requirement is to provide [the citizen] with sufficient information to reassure of the [intrusion's] legality." *Michigan v. Tyler*, 436 U.S. 499, 508 (1978). *Accord Camara* at 529-30 ("[E]ven the most law-abiding citizen has a very tangible interest in limiting the circumstances under which the sanctity of his home may be broken by official authority, for the possibility of criminal entry the guise of official sanction is a serious threat to personal and family security." (citations omitted)); *U.S. v. Chadwick*, 433 U.S. 1, 9 (1977) ("[A] warrant assures the individual whose property is searched or seized of the lawful authority of the executing officer, his need to search, and the limits of his power to search.), *abrogated on other grounds by California v. Acevedo*, 500 U.S. 565 (1991)). Thus, the Fourth Amendment requires that law enforcement provide a suspect with sufficient information to reassure him of the legality of the arrest as soon as it is reasonably practicable. *C.f.* Rule 4(c)(3)(A), FRCrimP. ("Upon arrest, an officer possessing the original or a duplicate original warrant must show it to the defendant. If the officer does not possess the warrant, the officer must inform the defendant of the warrant's existence and of the offense charged and, at the defendant's request, must show the warrant to the defendant as soon as possible."); S.C. Code

Ann. § 17-13-50(A) (1976) ("A person arrested . . . has a right to know from the officer who arrests or claims to detain him the true ground on which the arrest is made. It is unlawful for an officer to . . . refuse to answer a question relative to the reason for the arrest . . . [or] neglect on request to exhibit to the person . . . the precept by virtue of which the arrest is made.").

The issue in *Camara v. San Francisco* was whether warrantless administrative searches of residences for inspection purposes were valid under the Fourth Amendment. The Supreme Court explained that the city, in arguing that the purposes of the Fourth Amendment were served without the use of warrants, failed to understand the significance of the amendment's function in providing notice to a resident of the legality of the intrusion. The Court described the particular unreasonableness in failing to provide notice to the resident:

> In our opinion, these arguments unduly discount the purposes behind the warrant machinery contemplated by the Fourth Amendment. Under the present system, when the inspector demands entry, **the occupant has no way of knowing whether enforcement** of the municipal code involved **requires inspection of his premises, no way of knowing the lawful limits of the inspector's power to search, and no way of knowing whether the inspector himself is acting under proper authorization**. . . . Yet, only by refusing entry and risking a criminal conviction can the occupant at present challenge the inspector's decision to search. And even if the occupant possesses sufficient fortitude to take this risk, as appellant did here, he may never learn any more about the reason for the inspection than that the law generally allows housing inspectors to gain entry.

387 U.S. at 532 (emphasis added).

A critical question in assessing the reasonability of providing reassuring information at the time of arrest is whether the burden of obtaining a warrant would be likely to frustrate the arrest. *See Camara* at 533 ("In assessing whether the public interest demands creation of a general exception to the Fourth Amendment's warrant requirement, the question is not whether

the public interest justifies the type of search in question, but whether the authority to search should be evidenced by a warrant, which in turn depends in part upon whether the burden of obtaining a warrant is likely to frustrate the governmental purpose behind the search.").

In *State v. Shaw*, 104 S.C. 359, 359, 89 S.E. 322, 323 (1916), this Court held that an officer making an at-home arrest pursuant to a warrant must have it "so near at hand . . . that it could [be] produced with reasonable promptness on demand." A policeman in the case had driven to the defendant's house to execute an arrest warrant, but he left the warrant in his buggy 150 to 200 yards from the house. *Id.* at 359, 89 S.E. 322 at 322. The policeman told the defendant about the warrant and the charges therein, but the defendant physically resisted. *Id.* After making the arrest, the officer fetched the warrant from the buggy and showed it to the defendant. *Id.* The Court reasoned that it was "not necessary that he should have had the warrant in his hand or in his pocket at the time of making the arrest," but it also distinguished cases in which a warrant is "at the station house in the possession of the chief of police, while the arrest [is] made by an inferior officer while out on his beat in another part of the town [or] in the possession of another officer in another county or town or in a different part of the same town, and could not therefore [be] produced on demand, and the accused [is] deprived of his liberty for an unreasonable length of time before the warrant could be produced." *Id.* at 359, 89 S.E. at 323.

In this case, Hilton was unreasonable in arresting Petitioner at his home without verification of the warrant. On one hand, Hilton understood Petitioner had an outstanding warrant stemming from a twelve-year old misdemeanor charge by a local office setting a minimal fine. He claimed that at the moment he first learned about the warrant by scanning his in-car computer, he happened to be close to Petitioner at his home but otherwise had no resources invested in making an arrest. Hilton was personally acquainted with Petitioner and knew Petitioner's residence within

his patrol area. Nothing indicated Petitioner was aware Hilton intended to attempt an arrest. Indeed, Petitioner ultimately volunteered that he would wait on Hilton to return with the warrant, and Mr. Carver offered to pay the $111 fine as collateral for Hilton to leave and return with the warrant. Thus, no circumstances or interest particular to the situation—i.e., beyond the default interest in diligently serving arrest warrants—justified making the arrest without the delay of returning to Petitioner's home with the warrant or obtaining some other assurance of its validity.

On the other hand, executing the warrant entailed grave intrusions into Appellant's liberty, security, property, and privacy interests and his individual dignity. Hilton entered a gate surrounding Appellant's curtilage and knocked on Petitioner's front door. Within the curtilage were at least two private buildings, which included the residences of Appellant and his elderly mother. At the time, Appellant was also hosting a friend, Mr. Carver. The three occupants were minding their own private affairs in the security and peacefulness of Appellant and his mother's curtilage. The record discloses a multitude of conceivable grounds for concern about Hilton's presence and the attempted arrest: ill health, concerns of criminal entry in official guise, indignity in front of present company, and abuse of property, privacy, and civil rights.

Thus, once Petitioner told Hilton he wanted proof of the validity of the warrant, reasonableness required him to endure the inconvenience of either obtaining an electronic or paper copy of the warrant or ascertaining more information than merely the name of the local office issuing it in order to provide proper assurance of the validity of the arrest. As discussed in *State v. Shaw*, while it was not necessary for Hilton to have the warrant in hand, he needed some further verification of the warrant close by, such as a hard or electronic photocopy of the warrant in his patrol car or a radio communication from another officer reading the details of the warrant firsthand. Having the warrant in the station house while Hilton was on his beat in another part of town was not

sufficient. Under the circumstances the private interests at stake dwarfed the interests of law enforcement in effecting an immediate arrest without showing a copy of the warrant or uncovering sufficient information to reasonably assure Appellant of validity of the arrest.

Importantly, the testimony that the State presented at trial reflected a fundamental misunderstanding about the balance of individual liberty interests with those of law enforcement that the Fourth Amendment requires. Hilton testified he understood that the regular course of executing warrants in a "diligent" manner "oftentimes" overcomes any need to actually possess the warrant. He also tried to reason that knowing Petitioner lived nearby when he discovered the warrant in itself justified making the arrest immediately. Similarly, Sergeant Beatty testified about a blanket policy obviating any balancing of interests that "[i]f the warrant's physically in possession of an officer in the warrant office, it's always been policy we could make the arrest." The trial judge then reassured this misunderstanding by stating on the record that an individual citizen's view of the validity of the arrest simply did not matter. Each of these postulations entirely overlooked the case-by-case balancing regularly mandated by courts deciding Fourth Amendment issues.

The opinion from the Court of Appeals cited *State v. Sims*, 304 S.C. 409, 418-19, 405 S.E.2d 377, 382-83 (1991) and *State v. Grate*, 310 S.C. 240, 242, 423 S.E.2d 119, 120 (1992), for the rule that an officer is not required to have an otherwise valid arrest warrant in his possession in order to make an arrest. *State v. Sims* is inapposite. The defendant in that case argued that officers arrested him in his motel room without the existence of a valid arrest warrant. The South Carolina Supreme Court held that the arrest was valid after finding that a valid arrest warrant did exist. *Sims* at 418-19, 405 S.E.2d at 382-83. In this case, Petitioner acknowledges that a valid arrest warrant existed. He argues that the Fourth Amendment required the arresting officers in this case to show him the warrant or a copy of the warrant in order to enter his curtilage and arrest him.

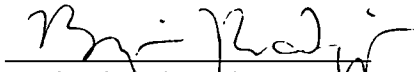
State v. Grate is also inapposite. In that case, officers arrested the defendant pursuant to a valid arrest warrant—although they were not in actual possession of it—**in public**. *Grate* at 241, 423 S.E.2d at 119. Petitioner's argument in this case relies on the principle that the Fourth Amendment places "a greater burden is placed . . . on officials who enter a home or dwelling without consent." *Payton v. NY*, 445 U.S. 573, 587 (1980) (internal quotations omitted).

The Constitution obligated the State to provide Petitioner with sufficient information to reassure him of the legality of his arrest as far as it was reasonably practicable for law enforcement to do so. For the duration of the encounter at Petitioner's residence, Hilton, warrantless, was unreasonably intransigent. His disregard for the requirements of the Fourth Amendment notably directly resulted in some of the exact maladies it was meant to prevent—exacerbation of Petitioner's ill health, disruption of Petitioner's sense of personal safety and security, and the infliction of unjustifiable indignities on Petitioner and his mother. In terms of the broader interests contemplated by the Fourth Amendment, providing reasonable assurance of the validity of the arrest at the outset would have soothed the soreness of the seizure, averted the affray between citizen and state, and obviated the ensuing adjudicatory proceedings. And besides the misbalancing of private and State interests, as forewarned in *Camara*, the encounter illogically entailed Petitioner's resisting the arrest and risking criminal conviction in order to find assurance that the arrest was valid. Accordingly, Petitioner's arrest was unreasonable and in violation of his Fourth Amendment rights, and the lower courts erred in failing to dismiss the charges arising from the arrest.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the petition for certiorari to allow full briefing.

Respectfully submitted,



Benjamin John Tripp
Appellate Defender

ATTORNEY FOR PETITIONER.

This 8th day of December, 2015

STATE OF SOUTH CAROLINA
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PETITIONER

APPELLATE CASE NO. 2013-000685

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 has been served on Alicia Olive, Esquire, and the S.C. Court of Appeals this 8th day of December, 2015.

Benjamin John Tripp
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 8th day
of December, 2015.

(L.S.)
Notary Public for South Carolina
My Commission Expires: May 12, 2025