THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Krista L. Harrington, Circuit Court Judge

The State,

Respondent,

V.

Anthony Janirus Robinson

Appellant.

APPELLATE CASE NO. 2015-605

INITIAL BRIEF OF APPELLANT

Ronald G. Tate, Jr.
GALLIVAN, WHITE & BOYD, P.A.
P.O. Box 10589
Greenville, SC 29603
(864) 271-9580

Robert M. Dudek
Chief Appellate Defender
S. C. COMMISSION ON INDIGENT DEFENSE
DIVISION OF APPELLATE DEFENSE
P.O. Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEYS FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATEMENT OF ISSUES ON APPEAL

I. DID THE TRIAL COURT COMMIT ERROR IN ADMITTING EVIDENCE SEIZED PURSUANT TO A PURPORTED INVENTORY SEARCH, IN THE ABSENCE OF EVIDENCE ESTABLISHING STANDARD POLICE PROCEDURES GOVERNING SUCH SEARCHES?

II. DID THE TRIAL COURT COMMIT ERROR IN ADMITTING EVIDENCE SEIZED UNDER THE GUISE OF AN INVENTORY SEARCH, WHERE THE SEARCHED VEHICLE WAS NOT TAKEN INTO POLICE CUSTODY?

III. EVEN IF THE SEARCH WAS JUSTIFIED AS AN INVENTORY SEARCH, WAS THE SCOPE OF THE INVENTORY SEARCH EXCEEDED BY SEARCHING THE POCKETS OF THE INVENTORIED JACKET WHERE ALLEGED CONTRABAND WAS FOUND?

STATEMENT OF THE CASE

Appellant, Anthony Janirus Robinson, was arrested on September 21, 2012 and charged with Trafficking in Cocaine, 10 grams or more, but less than 28 grams. The charge came for trial before the Honorable Krista L. Harrington, on March 3, 2015 in the Court of General Sessions for Charleston County. Defense counsel made a motion to suppress evidence consisting of cocaine obtained from a vehicle. The trial court denied the motion to suppress reasoning that there may be some discrepancy or difference of opinion whether the search was conducted as an inventory search ruling "I would think that he would then also have the right to an inventory search to make sure there was no further contraband or illegal items in there." (Tr. 16, ll. 8-19).

The case then proceeded to trial by jury on March 4, 2015. The defendant was found guilty of the lesser included charge of simple possession of cocaine, and the court imposed a sentence of 10 years and a fine of $12,500. Notice of Appeal was duly filed on March 12, 2015.

STATEMENT OF FACTS

During the early morning hours of September 21, 2012, the North Charleston Police Department conducted surveillance at a North Charleston nightclub known as "Showtime." In conducting his surveillance, Officer James Greenawalt walked through the club's parking lot and passed between each car. (Tr. 111, ll. 15-16). Office Greenawalt testified that as he passed an unoccupied Oldsmobile, he noticed an odor of marijuana coming from the vehicle. (Tr. 111, ll. 17-18). Officer Greenawalt testified that he kept the car under surveillance. He then saw the defendant, Anthony Robinson, exit the nightclub accompanied by a female companion.

Mr. Robinson and the female walked toward the Oldsmobile. Officer Greenawalt testified that Robinson had the car keys in his hand, and he opened the driver's door. (Tr. 112, ll. 23-113, ll. 11). At that point, Officer Greenawalt stopped Mr. Robinson. He did not allow Mr. Robinson to enter the vehicle (Tr. 113, ll. 13-14) and for "officer safety," Officer Greenawalt detained Mr. Robinson and placed him in handcuffs. (Tr. 115, ll. 11-14). The female, a Ms. Rivers[1], was also placed in handcuffs. (Tr. 116, ll. 2-3).

Officer Greenawalt advised Robinson that he was being detained because of the odor of marijuana from the car. (Tr. 116, ll. 15-18). After Mr. Robinson was placed in handcuffs, Officer Greenawalt testified that he requested Robinson consent to a search of his person. (Tr. 117, ll. 1-4). Mr. Robinson complied, and as a result of that search, a One Dollar bill with two "little marijuana nuggets" folded inside was located in Mr. Robinson's back pocket. A burnt marijuana "blunt" was found in Mr. Robinson's right front pocket. (Tr. 117, ll. 12-23). Mr. Robinson was then placed under arrest for possession of marijuana

[1] Ms. Rivers was detained but was not charged.

(Tr. 118, ll. 10-13) and a transport unit was called. The transport unit arrived on scene and Mr. Robinson was placed in the back of the transport vehicle. (Tr. 119, ll. 2-7).

Thus, at all times while Mr. Robinson was stopped, handcuffed, searched and arrested, he was outside of the Oldsmobile.

Officer Greenawalt testified that after arresting Mr. Robinson and placing him in the transport vehicle, he turned to the Oldsmobile and conducted what he described as an inventory. Officer Greenawalt testified that the Department's policy is to tow vehicles and to complete a "tow sheet." (Tr. 119, ll. 8-15). No evidence was adduced at trial concerning the police department's policies, practices or procedures, or the standards to be employed by officers, governing the conduct of inventory searches. Likewise no evidence was offered concerning how the officer was to conduct his search or exactly what the "inventory" procedures were. No "tow sheet" was ever introduced into evidence.

Significantly however, Officer Greenawalt did testify that "on that tow sheet you have to list any valuable items that are inside the vehicle or anything illegal that was inside the vehicle." (Tr. 119, ll. 15-17).

During Officer Greenawalt's search of the Oldsmobile, he searched the center console. In the center console was a black bag. Inside the black bag were several clear plastic bags that he testified contained a white powdery substance which field tested positive for cocaine. (Tr. 120, ll. 8-19). Officer Greenawalt testified that he then secured the cocaine found in the search of the center console and "during [the] rest of my inventory of the vehicle I located a black jacket. ... [T]his hoodie had two front pockets, and inside the right jacket pocket of that hoodie I located another plastic baggie of cocaine that weighed approximately twelve grams." (Tr. 124, ll. 16-25). He testified that he removed the drugs

from the hooded sweat shirt and left the sweat shirt inside the vehicle because "our evidence lockers and stuff is overflowing with evidence inside there." (Tr. 127, ll. 9-16).

Officer Greenawalt testified that after he inventoried the vehicle, the actual owner of the vehicle arrived on scene. (Tr. 133, ll. 22-24). The vehicle was then released to the owner, Shannon Brown. (Tr. 134, ll. 22-24). According to Ms. Brown, Ms. Rivers called her and advised that she and Robinson had been detained by the police. She came on site to retrieve her vehicle. (Tr. 228, ll. 11-23). Ms. Brown also testified that she had loaned the car to Ms. Rivers, who was given permission to use it. (Tr. 225, ll. 16-17; 226, ll. 4-8). Ms. Brown also testified on cross-examination that she was aware that Ms. Rivers was known to wear men's clothing[2] and that she had seen Ms. Rivers sell drugs previously. (Tr. 231, ll. 1-9).

After the vehicle was searched and the cocaine was seized, Officer Greenawalt read Mr. Robinson his Miranda rights and interrogated him. Officer Greenawalt testified that he asked Mr. Robinson who "the cocaine belonged to," and Mr. Robinson stated that the cocaine belonged to him. (Tr. 130, ll. 6-12). Officer Greenawalt admitted that no distinction was made between the cocaine in the jacket and the cocaine in the center console. (Tr. 130, ll. 16-21). [3]

Following denial of defendant's motion for a directed verdict, the case was submitted to the jury. The jury found Mr. Robinson guilty of the lesser included offense of simple possession of cocaine. He was then sentenced to a prison term of ten years and fined $12,500.00.

---

[2] A fact that was relevant to the ownership of the jacket/hoodie.

[3] The Court conducted a Jackson v. Denno hearing and admitted the defendant's statement into evidence. The statement concerns evidence that was unlawfully seized and, accordingly, the statement should not have been admitted as a fruit of the poisonous tree.

ARGUMENTS

INTRODUCTION

This appeal concerns the unlawful and unconstitutional search of a vehicle under the guise of an "inventory search" that was defective in two critical respects. First, the State absolutely failed to establish the existence of police procedures that would validate the search as an "inventory search" under *South Dakota v. Opperman*, 428 U.S. 364, 96 S. Ct. 3092, 49 L.Ed.2d 1000 (1976) and its progeny. Second, the vehicle was never taken into police custody so that an inventory would even be necessary. Moreover, as a result of the lack of proper police procedures, the scope of the search was unlimited, and the officer rummaged unnecessarily through the pockets of the hooded jacket in a manner that could not be justified under a reasonable inventory search. As a result of these defects, the evidence seized thereby should have been suppressed.

STANDARD OF REVIEW

Under the applicable standard of review on appeal for Fourth Amendment Search and Seizure cases, the appellate court may reverse where there is clear error. The admission of evidence is within the discretion of the trial court and will not be reversed absent of abuse of discretion. An abuse of discretion occurs, however, when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, it is without evidentiary support. *State v. Wright*, 391 S.C. 436, 442, 706 S.E.2d 324, 326 (2011). While the court must utilize a deferential standard, "this deference does not bar this court from conducting its own review of the record to determine whether the trial judge's decision is supported by the evidence." *State v. Tindall*, 388 S.C. 518, 521, 698 S.E.2d 203, 205 (2010).

I. THE TRIAL COURT ERRED IN ADMITTING EVIDENCE SEIZED PURSUANT TO A PURPORTED INVENTORY SEARCH, IN THE ABSENCE OF EVIDENCE ESTABLISHING STANDARD POLICE PROCEDURES GOVERNING SUCH SEARCHES

The admissibility of the cocaine evidence rises or falls upon the propriety of the search as an "inventory search." Undoubtedly, the search is not justifiable as a search incident to arrest for the simple possession of marijuana. The vehicle search could not be justified under the rule of *Arizona v. Gant*, 556 U.S. 332, 129 S.Ct. 1710, 173 L.Ed.2d 485 (2009). *Gant* held that a vehicle search incident to arrest is proper only where the arrestee has access to the vehicle or where there is a likelihood of finding evidence related to the offense. Because Mr. Robinson was stopped, detained, searched and arrested outside of the vehicle before he entered it, a search of the vehicle incident to his arrest would not be allowed under *Gant*.

Moreover, because the search is invalid as an inventory search under the requirements of *South Dakota v. Opperman*, all of the physical evidence seized thereby as well as the defendant's alleged "confession" were improperly admitted as the fruits of an unlawful search and seizure. *Wong Sun v. United States*, 371 U.S. 471, 484, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963); *State v. Brown*, 401 S.C. 82, 736 S.E.2d 263 (2012). Here, the exclusionary rule requires that the State be prohibited from introducing the evidence and the confession derived therefrom as the only remedy to prevent the State from violating the warrant requirement of the Fourth Amendment. Warrantless searches and seizures are unreasonable absent a recognized exception to the warrant requirement. *State v. Wright*, 391 S.C. 436, 442, 706 S.E.2d 324, 327 (2011) Exceptions to the warrant requirement include (1) Search incident to a lawful arrest, (2) hot pursuit, (3) stop and frisk, (4) automobile exception, (5) plain view, (6) consent, and (7) abandonment.

State v. Brown, 401 S.C. at 89, 736, S.E.2d at 266. The burden is on the State to justify a warrantless search. *State v. Peters*, 271 S.C. 498, 248 S.E.2d 475 (1978) citing *Coolidge v. New Hampshire*, 403, U.S. 443, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971).

In this case, the State has failed to sustain its burden that the warrantless search of the Oldsmobile was justified as a valid inventory search. To do so, the State would have to submit evidence of departmental policies that are standardized and uniform, that those policies were followed in good faith, and that the policies sufficiently limit the searching officer's discretion to prevent his search from becoming a pretext for discovery of incriminating evidence. This the State did not do at the trial of this case, and, accordingly, the conviction should be reversed.

The Supreme Court in *South Dakota v. Opperman* recognized that vehicle searches are frequent and are necessary. The *Opperman* court justified vehicle searches under the "community caretaking function" and noted that they are justified for a number of different reasons and under a number of circumstances. 428 U.S. at 369. Further, *Opperman* recognized the need to inventory impounded property to protect the owner, to protect the police against false claims, and to protect the police from potential danger. *Id.* The court noted that "the decisions of this Court point unmistakably to the conclusion reached by both Federal and State courts that inventories pursuant to standard police procedures are reasonable." *Id.* at 372. The United States Supreme Court in *Colorado v. Bertine*, 479 U.S. 367, 107 S.Ct. 738, 93 L.Ed.2d 738 (1987) explained that inventory searches may be justified and the police may exercise some discretion between impounding vehicles and locking them in a public parking space so long as that discretion

is exercised according to standard criteria and on the basis of something other than suspicion of evidence of criminal activity. 479 U.S. at 375.

The leading Fourth Circuit case interpreting the *Opperman* requirements is *United States v. Matthews*, 591 F.3d 230 (4th Cir. 2009). The Court of Appeals upheld an inventory search that was conducted according to written policies and procedures of the Sheriff's Department. The policy required officers to inventory and impounded vehicles contents. A complete inventory was to be taken and all valuables located in the interior or glove compartment were to be locked in the trunk of the vehicle or otherwise secured. An inventory form is to be completed and the procedures provide for a distribution of the inventory forms. The court noted that "for the inventory search exception to apply, the search must have been conducted according to standardized criteria, such as a uniform police department policy ... and performed in good faith." *Id.* at 235. The Court of Appeals also noted that the standardized criteria may be proven by reference to either written rules and regulations or testimony regarding standard practices. *Id.* However, "to justify a warrantless search, standardized criteria must sufficiently limit a searching officer's discretion to prevent his search from becoming 'a ruse for a general rummaging in order to discover incriminating evidence.' *Florida v. Wells*, 495 U.S. 1, 4, 110 S.Ct. 1632, 109 L.Ed.2d 1 (1990)." *Id.*

In *Florida v. Wells*, the Supreme Court considered the propriety of an inventory search of a vehicle that uncovered a suitcase in the trunk. The suitcase contained a bag full of marijuana. Justice Rehnquist stated that wide latitude is granted to police agencies in conducting searches of closed containers. Justice Rehnquist found, however, that because the Florida Highway Patrol had no policy with regard to opening closed

containers encountered during inventory searches, the search violated the Fourth Amendment. Accordingly, the Supreme Court held that the marijuana evidence in the suitcase was properly suppressed. 495 U.S. at 5.

There is a complete lack of evidence that the North Charleston Police Department employed any standardized criteria or any other written rules and procedures for an inventory search. Moreover, there was no testimony establishing what those procedures were other than the most general testimony of Officer Greenawalt that he was to complete a "tow sheet" listing valuables and illegal items. No inventory of the contents was ever placed in the record. In her ruling, the trial judge demonstrated clear error in applying the inventory search requirements when she stated the police had a right to conduct an inventory search "to make sure there was no further contraband or illegal items in there." (Tr. 16, ll. 18-19).

Here, the import of the evidence is clear: All of the evidence in the State's case flowed from this inventory search. Both the physical evidence and the "confession" were directs fruits of the illicit warrantless search. The "confession" was made only after the search and seizure took place.

One critical component of the *Matthews* court's analysis was the limitations on the officer's discretion concerning the inventory search.

> Here, by requiring that searching officers perform a "complete inventory" in order to "to prevent any loss or theft," the Department's policy gives officers the discretion to determine whether a valuable may be located within a container as to require that container's opening. J.A. 28. But the Department's policy sufficiently limits that discretion in various ways. First, the policy requires officers to search particular areas-specifically, the interior, glove compartment and trunk. Second, it requires officers to lock in the trunk of the vehicle or otherwise secure all valuables located in the interior or glove compartment. Finally, the policy requires officers to complete an inventory form and file it in triplicate. These mandates make

> the discretion afforded to officers by the Department's policy clearly related to the purposes of an inventory search, namely, "to protect an owner's property while it is in the custody of the police, [and] to insure against claims of lost, stolen, or vandalized property." *Bertine*, 479 U.S. at 372, 107 S.Ct. 738. And a police officer should be allowed "sufficient latitude to determine whether a particular container should or should not be opened in light of the nature of the search and characteristics of the container itself." Banks, 482 F.3d at 739 (internal quotation marks and citations omitted). Accordingly, we find that because the Department's policy properly curtails the discretion of searching officers and Deputy Clark adhered to that policy, Deputy Clark's search falls within the inventory search exception and thus does not violate the Fourth Amendment.

United States v. Matthews, 591 F.3d 230, 238-39 (4th Cir. 2009).

This limitation on discretion is critical to prevent inventory searches from devolving into fishing expeditions for the identification of incriminating evidence. This was recognized in *United States v. Sellers*, 512 F.App'x 319 (4th Cir.) *cert. denied*, 133 S.Ct. 2786, 186, L.Ed.2d 231 (2013). There, the Fourth Circuit stated "once a suspect is detained, the inventory search exception does not give arresting officers carte blanche to rummage through the detainee's property looking for possible evidence of criminal activity. In order for the inventory search exception to apply, the search must have been performed pursuant to a standardized criteria--such as a uniform policy--and such criteria must have been administered in good faith." *Id.* at 325. *See also, United States v. Carroll*, 2012 W.L. 4057221 (W.D.Va. 2012) (Inventory search must be conducted according to standardized procedure that sufficiently limits the discretion of the officer in order to prevent the search from becoming a "general investigatory search for incriminating evidence. If the search is performed for as a pretext for a general investigatory search, the search is in bad faith.")

In this case, Officer Greenawalt clearly revealed an invidious motive for the search and seizure in his direct testimony to the solicitor at this trial. He stated of his own volition that he understood his department's policy was to place on the "tow sheet" any valuable items that are inside the vehicle or "anything illegal that was inside the vehicle." (Tr. 119, ll. 15-17). This investigatory motive renders the search unconstitutional.

The trial court made a clear error in holding that Greenawalt had a right to use the inventory to search for illegal items. The Virginia Court of Appeals recently considered this very issue in *Cantrell v. Commonwealth*, 774 S.E.2d 469 (Va. App. 2015). The Virginia court held that the inventory search was not performed pursuant to standard police procedures and was merely a pretext for an improper search for contraband. Just as Officer Greenawalt admitted that one of his purposes in performing the search was to find illegal items, the searching officer in *Cantrell* stated that he also looked for contraband.

> Officer McGhee testified that "[b]ased on his training and experience," his "standard procedure" was to check for *contraband* and hazards during an inventory search and to search for any valuables that could "come up missing from the vehicle." Despite that fact that these purported reasons reference some of the underlying principles of the community caretaker's exception, when asked specifically to clarify if contraband was one of the things Officer McGhee was looking for during the inventory search, he responded, "[c]ontraband is one of the things I'm looking for." This glaring admission proves that Officer McGhee's search of Cantrell's vehicle was not for the benign purposes underlying the community caretaker exception; instead, one of his reasons for performing the inventory search was to improperly search for contraband and other evidence of crime.

774 S.E.2d at 474 (emphasis supplied). The court found that the police department's procedures at issue in that case gave individual officers "unfettered discretion in the

manner in which they conducted an inventory search, a practice that is inapposite to the underlying principles of the community caretaker exception." *Id.* Because this is precisely what happened in this case, with Officer Greenawalt trying to ferret out "anything illegal," the search is unlawful and unconstitutional, and the trial court's denial of the suppression motion was clear error.

II. THE TRIAL COURT ERRED IN ADMITTING EVIDENCE SEIZED UNDER THE GUISE OF AN INVENTORY SEARCH, WHERE THE VEHICLE WAS NOT TAKEN INTO POLICE CUSTODY.

The trial court also committed error in admitting evidence that was seized pursuant to an alleged "inventory search" when the vehicle was not taken into police custody. On this issue, a federal district court decision of the Honorable Joseph Anderson is instructive. In *United States v. McIlwain,* 2012 W.L. 5306202 (D.S.C. 2012), Judge Anderson found that an inventory search violated the Fourth Amendment and that evidence discovered during the search must be suppressed.

The facts of *McIlwain* are similar to the case on appeal. Mr. McIlwain drew the attention of a Lancaster policeman who was on traffic patrol because McIlwain was playing loud music in his Honda. McIlwain noticed the policeman and turned the music down as he was pulling into a nearby driveway. The policeman approached McIlwain to ask him questions. McIlwain provided a registration card for the vehicle showing that the title was in someone else's name. The policeman placed McIlwain in "investigative detention" and handcuffed him. Finding McIlwain's driver's license was suspended, he placed McIlwain under arrest and commenced an inventory search of the Honda where he found contraband.

Judge Anderson determined that the vehicle was not in the lawful custody of the police department because the owner had come to the scene at some point and claimed the vehicle. There was a dispute concerning when the owner arrived, and Judge Anderson found that the owner's testimony was more credible than the policeman on that issue. Discussing *United States v. Brown*, 787 F.2d 929 (4th Cir. 1986), Judge Anderson noted that for an inventory search to be lawful, the vehicle must be in lawful custody of the police. Finding that the owner was present before the inventory search occurred, the police were not in lawful possession of the vehicle and the search violated the Fourth Amendment. The officer's decision to impound the vehicle and subject it to a search violated the department's standard procedures because the vehicle was not in the officer's proper possession.

In *United States v. Brown*, the Fourth Circuit considered the seizure of illegal firearms during a warrantless search of an automobile. Brown was arrested for driving under the influence in Virginia. The arresting officer drove Brown's car to the police station and pursuant to a "non-discretionary police department policy," the officer conducted an inventory search. 787 F.2d at 931. The illegal weapon was discovered during the inventory search. The Fourth Circuit upheld the search because the police department had established a "standard non-discretionary policy of conducting an inventory of the contents of every vehicle that the police department impounded." *Id.* at 932. The Fourth Circuit further considered whether the vehicle was in lawful custody of the police department, framing the question of whether the police officer's decision to impound the vehicle was reasonable under the circumstances. Brown argued that the vehicle should not have been moved from the parking lot where the arrest was made and

could have been turned over to other occupants of the vehicle or to Brown's friend who lived nearby. The Fourth Circuit dismissed these objections and found that it was prudent for the police officer to impound the vehicle. Once impounded, the department's valid inventory search policy justified the weapons seizure.

In this case there was never a question that Mr. Robinson owned the Oldsmobile. The ownership of the vehicle would have been readily evident to the investigating officer. Moreover, the investigating officer decided to release the vehicle to the owner when requested. The vehicle was never towed or taken into custody. There was no reason for the vehicle to have been impounded, in the first incidence. The female companion, Ms. Rivers, was the permissive user of the vehicle according to the vehicle's owner, Ms. Brown. There was no evidence in the record at trial that Ms. Rivers was impaired or was not able to drive, and Ms. Rivers was not arrested on any charge. The vehicle simply sat during the entire transaction in the parking lot of the nightclub. Because the vehicle was never towed or impounded, there was no reason for the inventory search to be performed. Under the circumstances, the "inventory search" in this case appears to be nothing more than a pretext to search for evidence of a crime. Accordingly, the evidence should have been suppressed.

III. EVEN IF THE SEARCH WAS JUSTIFIED AS AN INVENTORY SEARCH, THE SCOPE OF THE INVENTORY SEARCH WAS EXCEEDED BY SEARCHING THE POCKETS OF THE INVENTORIED JACKET WHERE ALLEGED CONTRABAND WAS FOUND.

Even if the search was justified as an inventory search, the permissible scope of the search was exceeded because the officer unnecessarily went into the pockets of the inventoried jacket. Further evidence of the pretextual nature of the search is found in the circumstances giving rise to the discovery of cocaine in the pockets of the jacket, or

hoodie, found in the backseat of the Oldsmobile. *Florida v. Wells, supra,* prohibits an inventory search from serving as ruse for a general rummaging to discover incriminating evidence. The lack of evidence of any standard procedures or regulations concerning the scope of the inventory search, coupled with Officer Greenawalt's own admission that he was interested in finding "illegal items," demonstrates that the inventory search is nothing more than a pretext and cannot be sustained.

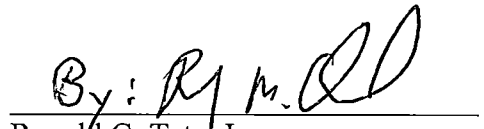
Rummaging through the pockets of an innocent item as part of an inventory search exceeds the State's interest in protecting the owner and the officers. This fact is further evident in how Officer Greenawalt treated the jacket after he discovered the cocaine: he simply placed it back in the car and did not seize it. Officer Greenawalt could have discharged any responsibility he had to complete a reasonable inventory by noting the presence of the jacket inside the car. There did not appear to be any justification for searching through the pockets, while clearly engaged in a search to ferret out illegal items. *See United States v. Jackson,* 529 F. Supp. 1047 (D.Md. 1981) (Inventory search of contents of a closed black bag was not sustainable as an inventory search where there was no evidence of a standard procedure and the officer testified that he had discretion to decide what items would be inventoried and where a search would be conducted.)

CONCLUSION

The State's case depends entirely upon the purported inventory search of the Oldsmobile. Because the inventory search violated the Fourth Amendment, all of the evidence seized thereby must be excluded and suppressed. Likewise, the "confession" that was obtained by interrogating Mr. Robinson about the fruits of the illicit search

likewise must be excluded. The conviction accordingly should be reversed and the case remanded to the General Sessions court for dismissal.

Respectfully submitted,



Ronald G. Tate, Jr.
GALLIVAN, WHITE & BOYD, P.A.
P.O. Box 10589
Greenville, SC 29603
(864) 271-9580

Robert M. Dudek
Chief Appellate Defender
S. C. COMMISSION ON INDIGENT DEFENSE
DIVISION OF APPELLATE DEFENSE
P.O. Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEYS FOR APPELLANT

This 7th day of January, 2016.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Krista L. Harrington, Circuit Court Judge

The State,

Respondent,

V.

Anthony Janirus Robinson

Appellant.

APPELLATE CASE NO. 2015-000605

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon Benjamin Aplin, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 7th day of January, 2016.

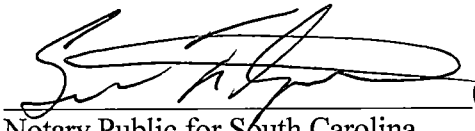
By: RMD

Ronald G. Tate, Jr.
GALLIVAN, WHITE & BOYD, P.A.
P.O. Box 10589
Greenville, SC 29603
(864) 271-9580

Robert M. Dudek
Chief Appellate Defender
S. C. COMMISSION ON INDIGENT DEFENSE
DIVISION OF APPELLATE DEFENSE
P.O. Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEYS FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of January, 2016.


(L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.