

Honorable Chief Clerk of Court
MR. DANIEL E. SHEAROUSE
POST OFFICE BOX 11380
COLUMBIA, SOUTH CAROLINA
29211

DM

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JUL 17 2017

S.C. SUPREME COURT

Dear Honorable Chief Clerk Shearouse:

Enclosed is order
to the Supreme Court of South Carolina ~~filed~~
by 7-17-17 being mailed out from
Ridox Land Correctional Institution Mail Room
today Friday 7-14-17 with certificate
of service. Please be as so kind to
forward a copy to Assistant Attorney
General Honorable Solicitor Mr. Ruben W. Nealy
Esquire at the Rembert Dennis Building
1000 Assembly Street; Room 519, Columbia
S.C. 29207 on clock stamp return copy back
to me petitioner Matthew Frazier. Thank
you Sir, for your kindness, liberty and
assistance in the above caption.

Respectfully Submitted
Petitioner Matthew Frazier

Date: 7/14/17

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
201009290670

NCIC
INQ. INTD.

- ORIGINAL REPORT
 MODIFIES ORIGINAL
 SUPPLEMENTAL REPORT
 CASE STATUS CHANGE
 ADDITIONAL VICTIMS
 ADDITIONAL OFFENDERS
 ADDITIONAL STOLEN PROPERTY
 ADDITIONAL RECOVERED PROPERTY

PAGE 1 OF 1 PAGES.

REFERENCE A:

BCSO INCIDENT REPORT #: 201009290670

ORIGINAL Reportable

INCIDENT TYPE: Sale & Distribution of Marijuana
Sale & Distribution of Marijuana within 1/2 mile Public Park

INCIDENT LOCATION: Martha Brown Circle

"Reportable"

REPORTING OFFICER: LCpl. Squires

COMPLAINANT: LCpl. Squires

VICTIM: State of South Carolina

SUSPECT: Frazier, Matthew

ASSIGNED OFFICER: LCpl. Rice

SYNOPSIS:

On September 29, 2010 Cpl. Carmany and I (LCpl. Squires) conducted surveillance of Martha Brown Circle. We observed a burgundy Dodge Intrepid, bearing South Carolina Registration GJU-683 parked in the rear part of Martha Brown Circle. We observed a black male, later identified as Matthew Frazier "BJ", sitting in the drivers seat of the Dodge Intrepid. We observed numerous subjects approach the drivers and passenger side of the Dodge Intrepid. The subjects were observed handing money into the Dodge Intrepid to Frazier. Frazier would then hand the subjects an unknown item. Based on our training, experience, an on going drug investigation, this as a drug transaction between Frazier and the subjects in the video surveillance. Frazier is observed exiting and entering from this vehicle a few times throughout the surveillance.

DISPOSITION / DESCRIPTION OF EVIDENCE:


I turned in the below items into the BCSO Temporary Evidence Locker, located at the BCSO Hilton Head Office on 10/13/2010 at approximately 1730 hours. See attached Evidence Submittal Form.

LIST OF ITEMS:

One (1) DVD-R containing nine videos.

FM

Certified to be a true and correct copy of the original

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED <input type="checkbox"/> UNFOUNDED		<input checked="" type="checkbox"/> ARRESTED UNDER 18 <input checked="" type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY									
REPORTING OFFICER(S)			DATE	UNIT NUMBER	APPROVING OFFICER			DATE	UNIT NUMBER
LCpl. Squires			10-13-10	S7362	 APPROVING OFFICER			10/19/10	K2976
FOLLOW-UP INVESTIGATION					<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				

10/20/10 48/23

The Supreme Court of South Carolina

Matthew Frazier
Petitioner.

v.

State of South Carolina
Respondent

Appellate Case NO. 2016-001665

RECEIVED

JUL 17 2017

S.C. SUPREME COURT

ORDER

Petitioner (Frazier) filed a petition for Writ of Certiorari requesting that the Honorable Court grant this and full briefing on the issue, reverse the charges against him and remand the case with vacation of his sentence and its conviction.

FACTUAL/PROCEDURE BACKGROUND

Matthew Trone was indicted in late 2010 and early 2011. Bradford County Grand Jury: trafficking between ten and twenty eight grams of Cocaine, trafficking between ten and twenty eight grams of Cocaine within the proximity to a school or park, possession with intent to distribute marijuana, possession with intent to distribute marijuana within proximity to a school or park, possession with intent to distribute crack, possession with intent to distribute crack within the proximity to a school or park, possession of a weapon during a violent crime, and possession of a stolen ~~gun~~ pistol.

Honorable Judge Russo sentenced Petitioner to thirty days imprisonment on the possession with intent to distribute marijuana charge, ten years imprisonment on the possession with intent to distribute Cocaine charge, and 15 yrs. imprisonment on the trafficking charge.

1. Did the PCR Court err in denying Petitioner's relief where trial counsel was ineffective in his assistance as counsel by failing to adequately investigate the issue of vehicle ownership which would have highlighted inconsistencies in law

This Honorable Court gives great deference to the PCR courts findings of fact and conclusions of law 17-27-80
Coprod v. State 338 S.C. 103, 107, 525 S.E.2d 225 (1998)
 (2000) citing McGraw v. State 377 S.C. 557, 455 S.E.2d 226 (1995)
 On review, a PCR judges findings will be upheld if there
 is any evidence of probative value sufficient to support
 them. Chen v. State 300 S.C. 115, 119, 386 S.E.2d 624 (1999)
 (1989) if no probative evidence exist to support the
 findings, this Honorable Court will reverse. Piercer v. State
 338 S.C. 137, 149, 526 S.E.2d 222, 225 (2000) (citing)
Holland v. State 322 S.C. 116, 470 S.E.2d 378 (1996)

Petitioner would assert before this Honorable Supreme Court
 that on Tr. pg. 12 lines 11 thru Direct Examination by
~~Shirley~~ Shirley his witness Corporal James Robert
 Carrans. he states under oath that he obtained
 a search warrant in the case as a swearing
 affidavit on the affidavit on October 2, 2010
 Tr. pg. lines 3 thru 7

lines 14 thru 17. question was asked did he
 know which judge signed it? Judge Truffer.
 Is he a mag. State Judge? yes

(lines 22 thru 24) what was the object of the
 warrant? what you all were seeking to search
 A vehicle.

Tr. pg. 14 lines 1 thru 5) It was a burglarly
 Dodge Intrepid or 1999 burglarly four door
 Dodge Intrepid lines 9 and 10) located on
 north Brown Circle within the town of
 Bluffton

When was this search warrant executed? Lines 13-17

A: The search warrant was executed on 4 believe
it was -- was it the 11th or about the 11th of
October as witness reviews the documents.

Corporal Cormany left a copy of the search warrant
at the scene. Tr pg. 15 lines 10-12. It was left
actually on the dashboard by Corporal Rodriguez
and was given to Derrick Fields - who was the
registered owner of the vehicle. Lines 9 thru 13
was a copy of the search warrant and inventory.
also returned to the judge? yes it was. and I dated
return was October 12th 2019. Lines 14 thru 16

Q: would you please give us just a brief factual
basis of what's in the affidavit, the "supporting
probable cause for the search warrant.

Lines 17 thru 22) "During the month of September 1
2010 I Corporal Cormany was working with the
Beaufort Jasper County multi-agency. Drug task force
and I received information from a confidential
informant, "RE-liable source" of "Drug Activity"
coming from Matha Brown circle from within a
pur gully Dodge pickup."

Tr. pg. 19 cross examination Petitioner's counsel

Lines 21 thru 24) Q: okay you Mr. Day such
who submitted the affidavit to Judge Tucker for the
signature on a search warrant correct? yes, sir A:

Tr. pg. 20: you testified you did that October 2nd
is that correct? I believe so, yes sir: A: (lines 7-12)

Lines 30) Did you say something about signing it
having him sign it at a bond hearing? is that
what you said? yeah. I was -- yes I did say
that. okay can you explain whose bond hearing?

sure it was another arrest that I made of page 5 of 5
somebody else lines 8-12) I was at that bond hearing. That
was the best time to meet with the judge because he was
already conducting bond hearings.

Lines 13-15) All right: But it was not on bond hearing that
had anything to do with this case? nothing to do with this case,
no, sir.

Lines 23-25) Q. Okay. You testified a little bit about the
car that you got the search warrant for. When you were
surveilling the car, it was located at Martha Brown

Tr. pg. 21. Lines 3-3) Circle -- I think it's 28 Martha
Brown Circle -- is that correct? A. Is that general one, yes

Lines 9 thru 12) Let me ask you this. When you are doing
your "SURVEILLANCE" (DID YOU) "EVER SEE THE CAR NOW

A. NO. Lines 13 thru 17) Q. Was the car or always in the
same place when you saw it before the search warrant as
it was when you saw it upon the service of the search
warrant?

Lines 17 thru 19) A. When we did (PRE-SURVEILLANCE)
of the day before we served the search warrant, "YES".

It was in the same spot. Lines 20 thru 23) Q. So you're
saying that you did (SURVEILLANCE) on the vehicle before
October 2nd, when the search warrant is applied for --

A. Yes. Line 24. Q. -- correct. Line 25. And you
do SURVEILLANCE on the vehicle on

Tr. pg. 22. Line 2:) October 10th, the day before the
search warrant is executed. A. The day of. Line 4)

Q. The day of the execution of the search warrant. Lines
5-6-7) Okay. So that would be October 11th?

A. Yes, sir.

Line 8) Q. And those ("TWO TIMES") -- now, did you
ever see the car in between those two dates, October
whatever happens ~~before~~ "BEFORE" October 2nd and

October the 11th? Sonita Skipley (line 11) Page 6 of 6
Honor, I'm a little unclear of where we are going, because
my understanding is ("PROBABLE CAUSE") is what's presented
to the magistrate at the time of the issuance. He is
testifying to the probable cause and what - what he
swore to in front of Subject to swear the warrant.
So we kind of feel like we're getting out of bounds.

Line 18 - THE COURT: Well if I'm following his line of
questioning it's dealing with that ("PROBABLE CAUSE") from
the time of the ("AFFIDAVIT") to the time of the
("SEARCH WARRANT")

lines 22 - Now, honor said that I understand your objection
is the issue - is the (probable cause) to seek the ("warrant")
at the time on October the 2nd

Line 25 - Mr. Skipley (continued) That's correct, Your Honor
Tr. pg. 23) THE COURT: And so I guess you're - again
I'm trying to follow - your objection is that has nothing
to do with the time frame from the time of the search
warrant was received until it was executed for this
purpose of this hearing. Is that - would that be correct

lines 2 thru 6) Lines 7) Another under the purpose of this
hearing is to "DETERMINE" whether or not "THERE WAS"
PROBABLE CAUSE FOR THIS WARRANT TO BE ISSUED; Correct.
thru 9)

lines 10 thru 11) Mr. Deysaedi: That's one of the issues
I think there is other issues that are in play here

line 12) THE COURT: That go toward suppression?
line 13 - Mr. Deysaedi: Correct.

lines 14 thru, You Honor; I think that whether there is "PROBABLE"
("CAUSE") for the ("SIGNATURE ON THE WARRANT")
is one issue (7) whether or not there -
THE SEARCH ITSELF, even with the WARRANTS
IN - REASONABLE. Line 17

lines 18 thru 25) A: I think that when we were talking ^{Page 7 of 7} about a car (1) not a residence, a movable object, were talking about. - I'm trying to figure out the days that they've seen it. I'm thinking ten days in between signing ^{of} or nine days, or within ten days of signing the search warrant there is whether or not that probable cause still would have existed on the 11th; nine days or a car after -

Tr. pg. 25 lines 14 + 23 Q. (Mr. DEY says) From Trial Counsel of petitioner Matthew Frazier I think what I left off with was that you told the judge that between whatever surveillance you did that resulted in application of the warrant and the pre-surveillance that you did on the car the day of execution, that (you) had not seen that car at all for that interim; is that correct?

A. line 20) we checked multiple times through out the week. That was the delay in serving the warrants so you checked and the car was not there?

A. line 23) Yes. That's correct

line 24 Q. Did you ever see anybody driving the car?
line 25) I think I may have asked that already.

Tr. pg. 26) line 2) A. NO, I HAVE NOT

Petitioner Frazier now will assert before this Honorable High Court that Cpt. Cormany. Supplemental Incident Report. under synopsis: Differ's Incredibly

Ready Reads On September 29, 2010 Cpt. Cormany and I (Cpt. Squers) conducted surveillance of Martha Brown Circle ("WE OBSERVED") a Burgundy Dodge Intrepid bearing South Carolina Registration GJW-683 park in the rear part of Martha Brown Circle. We observed a Black male, later identified as Matthew Frazier. "BJ" sitting in the driver seat of the Dodge Intrepid ("WE OBSERVED") numerous subjects approach

Page 8 of 8
the drivers on 2 passenger side of the Dodge Intrepid. The subjects
were (OBSERVED) handing money into the Dodge Intrepid to
Frazier. Frazier would then hand the subjects on unknown
item) ("UNKNOWN ITEM") based on our training,
experiences on ongoing "DRUG INVESTIGATIONS, THIS WAS A
("DRUG TRANSACTION") between Frazier and the subjects
in the VIDEO SURVEILLANCE. Frazier is (OBSERVED)
exiting and entering from his vehicle a few times
through out the SURVEILLANCE. Moreover, Law
enforcement Agents had no visual surveillance of
Matthew Frazier. We (Agents) observed a Black
male, later identified. Tri pg 25 lines 14-23
of Deysach publisher's former Trial Counsel the best of
with is telling the Trial Court Judge that between
whatever surveillance you did as an officer or
Cpt. Law Enforcement Agent Mr. Carnomy that resulted
in the application of the Warrant and the pre-
surveillance on the car the day of the execution
that you ("HAW NOT") seen the car at all in
that interim; you stated under oath that the
delay in serving the Warrant you checked and the
car was not there. Did you ever see any body
driving the car? Tri pg 26 line 17 Agent Mr. I
HAW NOT. Agent Cpt. Carnomy's testimony in
which he had no personal knowledge of the
C.I.'s activities during the controlled as being
admitted purchase because it was inadmissible
Hearsay without exception under our rules of
evidence. see Rule 802, S.C.R. Further more, we
find that the omission of this portion of Cpt
Carnomy's testimony violated Matthew Frazier's
Constitutional right to confront witness against
the Confrontation Clause of the SIX Amendment

to the United States Constitution pro - Page 9 of 9
-wides that " [i]n all criminal prosecutions, the accused shall enjoy the right... to be confronted with the witness against him." U.S. Const. amend. VI.

This bedrock procedural guarantee is applicable to the States under the Fourteenth Amendment
point v. Texas, 380 U.S. 400, 406, 85 S. Ct. 1065,
13. LEd. 2d 928 (1965) The United States Supreme Court has held the Confrontation Clause prohibits the admission of out-of-court testimonial statements of a witness unless the witness is unavailable to testify and the defendant had a prior opportunity to cross examine the witness. When reviewing a case for sufficiency of the evidence, "the relevant question is whether, after viewing the evidence in light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt is not there. The evidence cannot support a conviction for the charge. The record shows there is no evidence at trial that could possibly be proven beyond a reasonable doubt. However, we do see tainted evidence in determining the sufficiency of the evidence to sustain a conviction; when there is an error of law; where the insufficiency of the evidence for judgment not withstanding the verdict perhaps Matthew Provier's, conviction and sentence - should be vacated and reversed. Because the alleged evidence was not enough to support a verdict of guilt and where there was an absence of showing no probable cause, which ought reasonably to satisfy jury that was nothing there beyond a reasonable doubt that was proven or established and because of such

In sufficiency of evidence petitions Page 10 of 10
Matthew Frazer humbly ask this Honorable
Supreme Court of South Carolina to move to
vacate the illegal sentence and conviction
which has been lodged upon him in these
Un-Constitutional Obstacles trusting that
petitioner has established his entitlement to
relief.

petitioner Matthew Frazer
Frazer Prays

SWORN TO BEFORE ME

THIS _____ Day of _____ 2017

NOTARY PUBLIC

my COMMISSION EXPIRES _____

S/

petitioner

Date: _____

The Supreme Court of South Carolina

Matthew Frazer

Petitioner

v.

State of South Carolina

Respondent

CERTIFICATE OF SERVICE

The Petitioner, Matthew Frazer hereby certifies that a TRUE COPY of (OROSE) in the above reference case has been served upon Assistant Attorney General Ruston W. Nealey, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201

Honorable Daniel E. Sherouse
Clerk of Court Chief
Post Office Box 11330
Columbia, S.C. 29211

Matthew
Frazer

Sworn to before me

This 14 day of July 2017

Dorothy Ferguson

Notary Public for South Carolina

My Commission Expires 7-14-17

57. Matthew Frazer

Petitioner

7/14/17

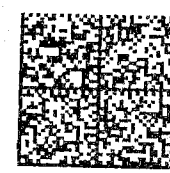
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