

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Laurens County

Honorable Donald B. Hocker, Circuit Court Judge

Opinion No. 5496 (S.C. Ct. App. Filed 7/12/2017)

12-GS-30-208-212.

THE STATE,

RESPONDENT,

V.

JOHN WILLIAM DOBBINS,

PETITIONER

APPELLATE CASE NO 2013-002134

APPENDIX

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INDEX

INDEX.....i

OPINION NO. 5496 (S.C. CT. APP. FILED 7/12/2017)..... 1

PETITION FOR REHEARING.....9

ORDER DENYING PETITION FOR REHEARING 15

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

John William Dobbins Jr., Appellant.

Appellate Case No. 2013-002134

Appeal From Laurens County
Donald B. Hocker, Circuit Court Judge

Opinion No. 5496
Heard April 11, 2017 – Filed July 12, 2017

AFFIRMED

Appellate Defender Taylor Davis Gilliam, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Deputy Attorney General David A. Spencer, both of
Columbia, and Solicitor David M. Stumbo, of
Greenwood, for Respondent.

WILLIAMS, J.: In this criminal appeal, John William Dobbins Jr. appeals his convictions for manufacturing methamphetamine, possession with intent to distribute methamphetamine, unlawful disposal of methamphetamine waste, possession of a schedule-two controlled substance, and possession of a schedule-four controlled substance. Dobbins asserts the circuit court erred in denying his

motion to suppress because law enforcement officers violated the Fourth Amendment by entering his backyard and home without a warrant. We affirm.

FACTS/PROCEDURAL HISTORY

Early in the morning on November 24, 2011, officers with the Laurens County Sheriff's Office received a report of an assault in Waterloo, South Carolina. The victim identified his assailant as Shayla Gaines and reported that Gaines returned to her residence—a camper located approximately three miles away. Four officers went to the camper's address around 3:00 A.M. with the intent of arresting Gaines.¹

During his in camera testimony, Deputy Hodges stated he was familiar with the residence prior to arriving at the camper because he knew Dobbins "professionally" and knew Dobbins lived at that address. Deputy Hodges stated that, upon arrival, Corporal Nick Moye—one of the four initial responding officers—went to the rear of the camper to "make sure everything was [secure]," while Deputy Hodges and Lieutenant Marlon Higginbotham went to the front door of the camper. While walking to the front door of the camper, the officers noticed the unmistakable and "overwhelming" odor of methamphetamine being manufactured.² Deputy Hodges then knocked several times on the camper's door, prompting Dobbins to answer. Once Dobbins opened the door, Deputy Hodges announced they were with the sheriff's department and stated they were searching for Gaines. At that point, Dobbins "slammed the door in [their] face," and the two officers forced the door open and entered the camper.

Once inside the camper, Deputy Hodges noted the methamphetamine odor intensified. While the officers did not find Gaines in their search of the camper, they did find methamphetamine, methamphetamine by-product, scales, and a white, powdery substance in plain view on the countertops. Additionally, officers found an active "one pot" methamphetamine lab—a plastic bottle that was emitting smoke and contained all the ingredients for making methamphetamine—sitting on

¹ The four officers did not have an arrest warrant for Gaines.

² While testifying both at the pretrial hearing and at trial, Deputy Hodges described the odor as a "strong chemical smell" that "burns your nose" and "takes your breath," specifically noting that it smells similar to "Coleman camp fuel mixed in with other chemicals." Deputy Hodges further stated it was a "one in a million" smell.

the toilet in the bathroom. Deputy Hodges testified they "went back out and asked [Dobbins] to sign a consent to search form" when they realized Gaines was not in the camper.³ After obtaining Dobbins' consent, officers conducted a more thorough search of Dobbins' camper and found more items associated with manufacturing methamphetamine.

Dobbins was indicted for manufacturing methamphetamine, possession with intent to distribute methamphetamine, unlawful disposal of methamphetamine waste, and two counts of possession of a controlled substance. Prior to trial, Dobbins moved to suppress all evidence seized from his residence because "it was obtained without a search warrant when [officers] entered the premises." The State asserted exigent circumstances existed—officers were searching for Gaines and smelled methamphetamine—permitting the officers to make a warrantless entry. After hearing Deputy Hodges' in camera testimony, the circuit court denied Dobbins' motion to suppress and explained exigent circumstances justified the initial entry into the camper.⁴

The jury convicted Dobbins on all counts following trial. The circuit court sentenced Dobbins to concurrent terms of imprisonment of one year for the two possession offenses, five years for unlawful disposal of methamphetamine waste, twenty-five years for manufacturing methamphetamine, and twenty-five years for possession with intent to distribute methamphetamine. This appeal followed.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Williams*, 386 S.C. 503, 509, 690 S.E.2d 62, 65 (2010) (quoting *State v. Wilson*, 345 S.C. 1, 5–6, 545 S.E.2d 827, 829 (2001)). "The admission of evidence is within the discretion of the [circuit] court and will not be reversed absent an abuse of discretion." *State v. Gaster*, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002). "An abuse of discretion occurs when the [circuit] court's ruling is based on an error of

³ After the initial sweep of the camper, Dobbins was detained and subsequently signed a consent to search form while in the presence of Corporal Moye. Dobbins did not challenge the validity of his consent to search in this appeal.

⁴ In particular, the circuit court noted the officers were justified in their search because the camper had "the potential of being moved," the officers smelled methamphetamine, and Dobbins was uncooperative.

law or, when grounded in factual conclusions, is without evidentiary support." *State v. Johnson*, 410 S.C. 10, 17, 763 S.E.2d 36, 40 (Ct. App. 2014) (quoting *State v. Jennings*, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011)). "In an appeal from a motion to suppress evidence based on Fourth Amendment grounds, an appellate court may conduct its own review of the record to determine whether the evidence supports the circuit court's decision." *State v. Abdullah*, 357 S.C. 344, 349–50, 592 S.E.2d 344, 347 (Ct. App. 2004).

LAW/ANALYSIS

I. Exigent Circumstances

Dobbins asserts the circuit court erred in denying his motion to suppress because the State failed to prove exigent circumstances supported their intrusions under the Fourth Amendment and the seizure of evidence from Dobbins' home resulted directly and indirectly from their violations. We disagree.

The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures through its exclusionary rule. U.S. CONST. amend IV. "A search compromises the individual interest in privacy; a seizure deprives the individual of dominion over his or her person or property." *Horton v. California*, 496 U.S. 128, 133 (1990). An individual in a private residence normally expects privacy, free of governmental intrusion not authorized by a warrant, and society recognizes this as a justifiable expectation. *State v. Herring*, 387 S.C. 201, 209, 692 S.E.2d 490, 494 (2009). As such, a warrantless search is inherently unreasonable, and thus, it violates the Fourth Amendment's prohibition against unreasonable searches and seizures. *Johnson*, 410 S.C. at 18, 763 S.E.2d at 41.

Nevertheless, "because the ultimate touchstone of the Fourth Amendment is 'reasonableness,' the warrant requirement is subject to certain exceptions." *Herring*, 387 S.C. at 210, 692 S.E.2d at 494 (citing *Katz v. United States*, 389 U.S. 347, 357 (1967)). Under the Fourth Amendment, an action is reasonable "as long as the circumstances, viewed objectively, justify [the] action." *Herring*, 387 S.C. at 210, 692 S.E.2d at 494 (alteration in original) (quoting *Scott v. United States*, 436 U.S. 128, 138 (1978)). "In the Fourth Amendment context, a court is concerned with determining whether a reasonable officer would be moved to take action." *State v. Wright (Wright 2016)*, 416 S.C. 353, 369, 785 S.E.2d 479, 487 (Ct. App. 2016) (quoting *State v. Wright (Wright 2011)*, 391 S.C. 436, 444, 706 S.E.2d 324, 328 (2011)). When a warrantless search falls within one of the well-

established exceptions to the Fourth Amendment's warrant requirement, the search will survive constitutional scrutiny. *Abdullah*, 357 S.C. at 350, 592 S.E.2d at 348.

"To survive a Fourth Amendment challenge to a warrantless search, the State must establish the officer had probable cause and demonstrate one of the exceptions to the prohibition against warrantless searches and seizures applies." *State v. Morris*, 411 S.C. 571, 580, 769 S.E.2d 854, 859 (2015). "The exigent circumstances doctrine provides an exception to the Fourth Amendment['s] protection against warrantless searches, but only where, from an objective standard, a compelling need for official action and no time to secure a warrant exist." *Abdullah*, 357 S.C. at 351, 592 S.E.2d at 348. Under the exigent circumstances exception, "[a] fairly perceived need to act on the spot may justify [an officer's warrantless] entry and search" *Herring*, 387 S.C. at 210, 692 S.E.2d at 494 (citing *Schmerber v. California*, 384 U.S. 757, 770–71 (1966)). The Fourth Amendment does not prevent an officer from making a warrantless entry and search if the officer reasonably believes there is a risk that the evidence will be destroyed before he or she can obtain a search warrant. *See United States v. Grissett*, 925 F.2d 776, 778 (4th Cir. 1991) ("The police need not . . . produce concrete proof that the occupants of the room were on the verge of destroying evidence; rather, the proper inquiry focuses on what an objective officer could reasonably believe."); *id.* (finding a reasonable officer could "reasonably conclude" that a room's occupants would try to dispose of drug evidence before an officer could obtain a warrant, especially when police had already identified themselves prior to smelling the odor of marijuana).

Exigent circumstances—such as imminent destruction of evidence, the potential for a suspect to flee, or a risk of danger to police or others—may justify a warrantless entry, but absent hot pursuit, there must be at least probable cause to believe the exigent circumstances were present. *Minnesota v. Olson*, 495 U.S. 91, 100 (1990). "Probable cause is a 'commonsense, nontechnical conception[] that deal[s] with the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.'" *Morris*, 411 S.C. at 580, 769 S.E.2d at 859 (alterations in original) (quoting *Ornelas v. United States*, 517 U.S. 690, 695 (1996)). "Probable cause is defined as a good faith belief that a person is guilty of a crime when this belief rests upon such grounds as would induce an ordinarily prudent and cautious person, under the circumstances, to believe likewise." *State v. Gamble*, 405 S.C. 409, 416, 747 S.E.2d 784, 787 (2013) (quoting *Wortman v. City of Spartanburg*, 310 S.C. 1, 4, 425 S.E.2d 18, 20 (1992)). "[D]etermining whether an officer has probable cause to conduct a

warrantless search depends on the totality of the circumstances." *Morris*, 411 S.C. at 581, 769 S.E.2d at 859. The distinctive odor of a drug alone is a sufficient basis to establish probable cause when a law enforcement official, familiar with the unique smell of that drug, recognizes its odor. *See State v. Lane*, 271 S.C. 68, 72, 245 S.E.2d 114, 116 (1978) ("[I]t is evident that the odor [of marijuana] emanating from the packages alone was a sufficient basis to establish probable cause as to their contents when it is considered that an officer of the law, familiar with the odor of marijuana, believed the odor being emitted was that of marijuana.").

Initially, we note Dobbins argues officers violated the Fourth Amendment when they entered into the curtilage of his residence—his backyard—without an exigent circumstance justifying their presence. However, upon our review of the record, we find Dobbins failed to raise this argument to the circuit court at the suppression hearing. Specifically, we note that, in issuing its ruling, the circuit court stated it found "exigent circumstances existing to justify the initial entry *into the residence*." (emphasis added). Moreover, the circuit court did not address what area was included in the curtilage of the camper. *See United States v. Dunn*, 480 U.S. 294, 301 (1987) (identifying the four factors courts should consider in deciding whether an area is part of the curtilage of the home). Thus, we find this aspect of Dobbins' argument is not preserved for appellate review. *See State v. Moore*, 357 S.C. 458, 464, 593 S.E.2d 608, 612 (2004) (holding an issue must be raised to and ruled upon by the circuit court to be preserved for appellate review); *see also State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 694 (2003) ("A party may not argue one ground at trial and an alternate ground on appeal.").

Next, evidence in the record supports finding the officers had probable cause. Testimony during the pretrial hearing and at trial established Deputy Hodges' familiarity with the "one in a million" smell of methamphetamine from prior experience. Moreover, the reporting officers testified to the almost immediate presence of a strong odor of methamphetamine on the premises when they arrived. Therefore, we find that, given his prior experience with the unique odor of methamphetamine, Deputy Hodges' detection of the odor upon his arrival at the camper was a sufficient basis for establishing probable cause. *See Lane*, 271 S.C. at 72, 245 S.E.2d at 116.

Last, Dobbins asserts the circuit court erred in finding the State presented sufficient evidence to support its intrusion under the Fourth Amendment because the State alleged the following two exigent circumstances: (1) the need to find Gaines and (2) the investigation of the presence of methamphetamine. Conversely, the State

asserts the odor of an active methamphetamine lab created an exigent circumstance requiring immediate action due to the risk associated with methamphetamine production and the realistic danger that Dobbins would destroy evidence after he realized law enforcement was at his door.

Given the totality of the circumstances, including Dobbins' behavior and the presence of the unmistakable odor of methamphetamine, we find an objective officer in a similar situation would be justified to conduct a warrantless search of the camper to prevent the destruction of the drugs and protect the safety of the officers and others. Specifically, we find a cognizable risk to others existed based on the inherently dangerous nature of methamphetamine labs. Further, we find the officers were faced with an immediate threat of evidence being destroyed. *See Grissett*, 925 F.2d at 778 ("[Because] the police had identified themselves before smelling the marijuana, an officer could reasonably conclude that the occupants of the room would attempt to dispose of the evidence before the police could return with a warrant. This is especially true in the case of an easily disposable substance like drugs."); *see also Abdullah*, 357 S.C. at 352, 592 S.E.2d at 348 (holding the totality of the circumstances gave officers reasonable grounds from an objective standard for a search of the premises). In the instant case, the officers were following up on a report of domestic violence. They arrived at the camper, and almost immediately, they detected the strong odor of methamphetamine. Moreover, after announcing themselves and their intentions at the door of the camper, they encountered a very uncooperative Dobbins. Both of these factors lend support for our conclusion the officers had no time to secure a search warrant because of exigent circumstances.

Therefore, we find the circuit court did not err in denying Dobbins' motion to suppress because the State presented sufficient evidence of exigent circumstances to justify a warrantless entry of Dobbins' camper.

II. Plain View Exception

Dobbins argues the circuit court erred in denying his motion to suppress evidence because the seizure of evidence from his home resulted directly and indirectly from the Fourth Amendment violations. We disagree.

Under the plain view exception, "objects falling within the plain view of a law enforcement officer who is rightfully in a position to view the objects are subject to seizure and may be introduced as evidence." *State v. Beckham*, 334 S.C. 302, 317,

513 S.E.2d 606, 613 (1999). "The two elements needed to satisfy the plain view exception are (1) the initial intrusion that afforded the authorities the plain view was lawful and (2) the incriminating nature of the evidence was immediately apparent to the seizing authorities." *Wright 2016*, 416 S.C. at 368, 785 S.E.2d at 487.

We affirm the denial of the motion to suppress evidence because the plain view doctrine presents an exception to the Fourth Amendment's warrant requirement. As previously discussed in Part I, we find the initial intrusion, which afforded the officers the plain view, was lawful. Moreover, the second element of the plain view exception is met because Deputy Hodges—who was experienced in methamphetamine detection—testified to finding methamphetamine, methamphetamine by-product, scales, and a white, powdery substance in plain view on the countertops and a "one pot" lab in the bathroom. We find the discovery of methamphetamine in conjunction with the distinct odor of methamphetamine emanating from the camper fully satisfy the second element. Thus, because the two elements of the plain view exception are met, we affirm the findings of the circuit court.

CONCLUSION

Based on the foregoing analysis, the circuit court's denial of Dobbins' motion to suppress the evidence is

AFFIRMED.

KONDUROS, J., and LEE, A.J., concur.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

JOHN WILLIAM DOBBINS,

APPELLANT

APPELLATE CASE NO

Appeal from Laurens County

Honorable Donald B. Hocker, Circuit Court Judge

Opinion No. 5496

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, Appellant John William Dobbins respectfully petitions this Court for a rehearing in the above-captioned matter after a published opinion, dated July 12, 2017, affirmed his convictions for manufacturing methamphetamine, possession with intent to distribute methamphetamine, unlawful disposal of methamphetamine waste, possession of a schedule-two controlled substance, and possession of a schedule-four controlled substance. In support of his petition, Appellant respectfully alleges that this Court overlooked or misapprehended the following arguments:

This Court erred in concluding that the distinctive smell of a drug alone is a sufficient basis to establish probable cause that exigent circumstances were present. Specifically, this Court held, based on State v. Lane, 271 S.C. 68, 72, 245 S.E.2d 114, 116 (1978), “[t]he distinctive odor of a drug alone is a sufficient basis to establish probable cause when a law enforcement official, familiar with the unique smell of that drug, recognizes its odor.”

Respectfully, the Lane case differed factually from the matter *sub judice*: Dobbins’ Fourth Amendment protections were heightened due to his presence in his own home. Since the enactment of the Fourth Amendment, the United States Supreme Court has stressed “the overriding respect for the sanctity of the home that has been embedded in our traditions since the origins of the Republic.” Payton v. New York, 445 U.S. 573, 601, 100 S.Ct. 1371, 1387. See also Silverman v. United States, 365 U.S. 505, 511, 81 S.Ct. 679, 682, 5 L.Ed.2d 734 (1961); United States v. United States District Court, 407 U.S. 297, 313, 92 S.Ct. 2125, 2134, 32 L.Ed.2d 752 (1972). Oliver v. United States, 466 U.S. 170, 178, 104 S. Ct. 1735, 1741, 80 L. Ed. 2d 214 (1984).

“At the risk of belaboring the obvious, private residences are places in which the individual normally expects privacy free of governmental intrusion not authorized by a warrant, and that expectation is plainly one that society is prepared to recognize as justifiable. United States v. Karo, 468 U.S. 705, 714, 104 S. Ct. 3296, 3303, 82 L. Ed. 2d 530 (1984).

In Lane, a UPS deliveryman alerted the Beaufort County Sheriff’s Department when he noticed an odor coming from two packages aboard his delivery van. 271 S.C. at 70, 245 S.E.2d at 115. A deputy opened one of the packages, which contained marijuana. Id. The package was resealed, and law enforcement **obtained a warrant** to search the delivery location. Id. (emphasis added). The Court in Lane held that “[p]robable cause having existed prior to the

opening of the first package, the warrant cannot be deemed a product of the illegal search of package number one nor can the search and seizure of package number two pursuant to the warrant be deemed a product of the illegal search of package one.” Id. at 72, 245 S.E.2d at 116.

A warrant was never procured to search Dobbins’ home. There was not an independent basis, other than the smell, to search Dobbins’ home after he lawfully ceased contact with officers who knocked on his door in the early morning. Under Florida v. Royer, 460 U.S. 491, 103 S.Ct. 1319, 75 L.Ed.2d 229 (1983), an individual has a right to ignore the police and go about his business. Any “refusal to cooperate, without more, does not furnish the minimum level of objective justification needed for a detention or seizure.” Florida v. Bostick, 501 U.S. 429, 437, 111 S.Ct. 2382, 115 L.Ed.2d 389 (1991).

This Court included Dobbins’ behavior in its examination of the totality of the circumstances. Dobbins’ behavior was reasonable, however: at 3:00 a.m., police officers knocked on his door searching for a woman who Dobbins knew was not there. They did not have an arrest warrant for her. Due to the fact that she was not there and the early morning hour, Dobbins’ behavior was reasonable.

This Court also misapplied the plain view exception. An independent and detached magistrate did not make a finding of probable cause and issue a warrant. Similar to Horton v. California, the evidence seized in Dobbins’ case was discovered while law enforcement was investigating a separate and distinct crime. 496 U.S. 128, 110 S.Ct. 2301, 110 L.E.2d 112 (1990). In Horton, officers secured a search warrant for the defendant’s home in order to search for proceeds from an armed robbery. Id. at 130, 110 S. Ct. at 2304, 110 L. Ed. 2d 112. The stolen property was not found. Id. at 131, 110 S. Ct. at 2304, 110 L. Ed. 2d 112. However, while searching the home, officers found weapons in plain view. Id. Similar to the officers in

Dobbins' case, who testified that they began investigating the methamphetamine situation, law enforcement in Horton was admittedly interested in finding evidence not covered by any probable cause. Id.

In United States v. Sharpe, an agent with the Drug Enforcement Administration searched a camper without the owner's permission based on his suspicion that it contained marijuana. 470 U.S. 675, 679, 105 S. Ct. 1568, 1571-72, 84 L. Ed. 2d 605 (1985). The Supreme Court examined "whether the police diligently pursued a means of investigation that was likely to confirm or dispel their suspicions quickly, during which time it was necessary to detain the defendant." Id. at 686, 105 S. Ct. at 1575, 84 L. Ed. 2d 605. "The question is not simply whether some alternative was available, but whether the police acted unreasonably in failing to recognize or to pursue it." Id. at 687, 105 S. Ct. at 1575, 84 L. Ed. 2d 605.

In Dobbins' case, one of the four officers could have attempted to procure a search warrant for Dobbins' home by driving to a magistrate's house in one of the four available police cars. Absent exigent circumstances or consent, the police cannot search for an individual in the home of a third party. Steagald v. United States, 451 U.S. 204, 101 S.Ct. 1642, 68 L.Ed.2d 38 (1981). Hodges testified that three officers could have stayed at Dobbins' home and apprehended Haines if she had walked out. Therefore, after Dobbins' denied a warrantless police officer entry to his home, a warrant should have been obtained. Exigent circumstances did not exist to search for Gaines.

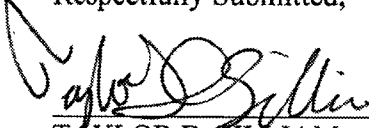
Finally, this Court held that the officers were faced with an immediate threat of evidence being destroyed, under United States v. Grissett, 925 F.2d 776, 778 (4th Cir. 1991) ("[Because] the police had identified themselves before smelling the marijuana, an officer could reasonable conclude that the occupants of the room would attempt to dispose of the evidence before the

police could return with a warrant. This is especially true in the case of an easily disposable substance like drugs.”). However, this Court indicated that Deputy Hodges and Lieutenant Marlon Higginbotham noticed the smell of methamphetamine while walking to the front door of the camper, before identifying themselves to the occupants of the camper. The fear of evidence destruction, under Grissett, could have existed prior to the time when the police announced their presence. A warrant could have been obtained, according to Hodges and the policy of the Laurens County Sheriff’s Department.

Officers did not have a lawful right of access to Dobbins’ home. They had time to obtain a warrant but did not do so. Therefore, the evidence which was allegedly in plain view and seized without a warrant should have been suppressed.

In light of the factors listed above that were overlooked and/or misapprehended by this Court in reaching its opinion, Appellant respectfully requests this Court rehear the matter and dismiss the charges against him.

Respectfully Submitted,


TAYLOR D GILLIAM
Appellate Defender

This 27th day of July, 2017.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

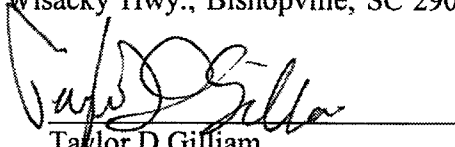
V.

JOHN WILLIAM DOBBINS,

APPELLANT

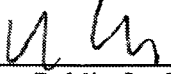
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Petition for Rehearing in the above-entitled case has been served upon David Spencer, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and John William Dobbins, #338485, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 27th day of July, 2017.



Taylor D Gilliam
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO BEFORE
ME this 27th day of July, 2017.

 (L.S)
Notary Public for South Carolina
My Commission Expires:

The South Carolina Court of Appeals

The State, Respondent,

v.

John William Dobbins, Jr., Appellant.

Appellate Case No. 2013-002134

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.

 J.

 A.J.

Columbia, South Carolina

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SEP 29

APPELLATE CLERK

FILED

September 21, 2017

cc:

John William Dobbins, Jr., 338485

Alan McCrory Wilson, Esquire

David A. Spencer, Esquire

Taylor Davis Gilliam, Esquire