

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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On Writ of Certiorari to the Court of Appeals  
Appeal from Charleston County  
Honorable Roger M. Young, Sr., Circuit Court Judge  
Appellate Case No. 2017-002108

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**DEC 15 2017**

**S.C. SUPREME COURT**

THE STATE,

Respondent,

vs.

JOSEPH TODD ROWLAND,

Petitioner.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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## STATEMENT OF ISSUES ON CERTIORARI

### I.

To the extent Rowland is challenging the appellate decision related to the admission of the evidence discovered during the search of his residence, the Court of Appeals correctly affirmed the trial judge's evidentiary ruling on that matter because Rowland's issue was not properly preserved for appellate review and because the information contained in the search warrant affidavit provided the magistrate who issued the search warrant with a substantial basis upon which he could conclude there was a fair probability drugs and other incriminating evidence would be found at Rowland's residence at the time of the search.

### II.

Aside from the issue related to the admission of the evidence discovered during the search of his residence, none of the other issues raised in Rowland's petition for a writ of certiorari were even arguably raised to the Court of Appeals, and, therefore, none of those issues can appropriately be raised to this Court through a petition for a writ of certiorari.

## STATEMENT OF THE CASE

### Procedural History

On June 3, 2011, Petitioner Joseph Todd Rowland was arrested following a narcotics investigation that led to the discovery of cocaine and marijuana in his residence. In April of 2012, the Charleston County Grand Jury indicted Rowland for trafficking in cocaine, possession of marijuana with intent to distribute, possession of a firearm during the commission of a violent crime, and unlawful possession of a stolen pistol. On May 12, 2014, a jury trial was commenced in the Charleston County Court of General Sessions with the Honorable Roger M. Young, Sr., circuit court judge, presiding. During trial, the trial judge granted a directed verdict as to the unlawful possession of a stolen pistol charge. Thereafter, at the conclusion of trial, the jury convicted Rowland of the three remaining indicted offenses. Following the verdict, the trial judge sentenced Rowland to concurrent terms of imprisonment of twenty years for trafficking in cocaine, five years for possession of marijuana with intent to distribute, and five years for possession of a firearm during the commission of a violent crime. Rowland then timely filed and perfected an appeal.

Subsequently, on appeal, the Court of Appeals issued an unpublished opinion in which it unanimously affirmed Rowland's convictions and sentence. State v. Rowland, Op. No. 2017-UP-225 (S.C. Ct. App. filed May 24, 2017). Thereafter, Rowland petitioned the Court of Appeals for rehearing, and the petition was denied. Rowland then filed a pro se petition for a writ of certiorari in the Supreme Court.

### Factual History

On the afternoon of June 3, 2011, Sergeant Brandon Ratliffe and Investigator Keith Sumner, who were narcotics investigators with the Charleston Police Department, began

conducting surveillance of Rowland's residence, which was located at 31 Woodleaf Court in Charleston, South Carolina, after the officers received several complaints about drug activity occurring at that location over the course of the preceding year.<sup>1</sup> (R. pp. 19-21; pp. 25-26; pp. 29-31; pp. 80-82). During their surveillance, the officers observed Rowland exit his residence and get into a vehicle parked outside.<sup>2</sup> (R. p. 31). As they continued to watch, a bicyclist rode up, got into the vehicle with Rowland, exited the vehicle after only a minute, and swiftly left the area. (R. p. 31). Shortly thereafter, the officers observed a blue car pull up and park in front of 31 Woodleaf Court. (R. p. 21; p. 31). Immediately after that, Rowland, who had gone back inside his home after meeting with the bicyclist, exited the residence, walked directly over to the passenger side of the blue car, reached in through the car's window, and conducted what appeared to be a hand-to-hand drug transaction with the driver. (R. p. 21; p. 31; p. 82). Rowland then hastily returned to his residence, and the driver of the blue car drove away. (R. p. 21; p. 31).

After the blue car left Rowland's residence, Sergeant Ratliffe and Investigator Sumner asked nearby officers waiting directly outside of Rowland's neighborhood to stop that vehicle based on the drug transaction they had just observed. (R. p. 22; p. 32). In response, the nearby officers quickly stopped the blue car and, during the ensuing stop, located marijuana and cocaine in the driver's possession. (R. pp. 22-23; p. 32). Sergeant Ratliffe and Investigator Sumner then responded to the scene of the stop and spoke with the driver, who confirmed he had just bought

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<sup>1</sup> The Record on Appeal, appellate briefs, and other appellate documents filed with the Court of Appeals in Rowland's case are currently available through the South Carolina Appellate Court Public Index. Appellate Records for State v. Joseph Todd Rowland, South Carolina Appellate Court Public Index, <http://ctrack.sccourts.org/public/caseView.do?csIID=56718>.

<sup>2</sup> While conducting the surveillance, the officers were positioned approximately fifty yards away from the residence with an unobstructed view and were using binoculars. (R. p. 21; p. 28).

the drugs from "Blow," who the officers knew to be Rowland, at Rowland's address. (R. pp. 22-23; pp. 32-33).

Thereafter, Sergeant Ratliffe rapidly prepared a search warrant affidavit and appeared before a magistrate to obtain a search warrant for Rowland's residence. (R. p. 24; pp. 33-34; p. 37). The affidavit Sergeant Ratliffe presented to the magistrate specifically identified the premises to be searched as the home located at 31 Woodleaf Court and contained the following information about the investigation:

Over the past 6 months, the Charleston Police Department Special Investigations Unit has received numerous complaints of narcotics activity from citizens, in reference to illegal narcotics being sold from 31 Woodleaf Ct. SIU has been conducting a[n] investigation on this residence and Joseph Rowland for more th[a]n a year for narcotic activity.

In response, within the past 72 hours, the CPD Special Investigations Unit . . . established a fixed surveillance location in which Inv. Ratliffe and Inv. Sumner observed Joseph Todd Rowland, a registered resident at this location, conduct a hand to hand narcotics transaction. At approx 1440hrs. Joseph Rowland was observed exiting the residence via the front door and walk[ing] up to a vehicle which parked in front of the residence. Joseph Rowland approached the door of the vehicle and conducted a hand to hand transaction with a person inside the vehicle [with a specified license tag number]. Within 1 minute of making contact with the driver of the vehicle Joseph Rowland then walked back into the above residence. The vehicle [with the specified license tag number] then immediately left the area. Inv. Ratliffe and Inv. Sumner then corroborate this by having a CPD patrol unit conduct a traffic stop on the above vehicle [with the specified license tag number] and locate an amount of illegal narcotics. The driver of the vehicle then wrote a statement confirming the above mentioned transaction of illegal narcotics.

Your affiant, Investigator C. Ratliffe, is a sworn police officer with the Charleston Police Department and has been for over 7 years with 1 year experience conducting narcotics investigation with the CPD Narcotics Unit. He has attended several narcotics investigation schools and seminars over the course of [his] career taught by the Drug Enforcement Administration, the South Carolina Criminal Justice Academy, and the Multi-jurisdictional Counterdrug Task Force Training. He has executed countless search warrants and has been involved in the arrest of over approximately 500 subjects for illegal drug offenses. Furthermore, he has conducted surveillance on suspected drug dealers, testified in court,

managed informants, and interviewed numerous suspects and witnesses for drug related crimes.

Based on Inv. Ratliffe's experience and the current investigation, there is probable cause to believe that illegal narcotics, and/or the proceeds of, are being stored at [an entirely unrelated Charleston address].

(R. p. 34; pp. 240-246). Additionally, Sergeant Ratliffe provided supplemental information to the magistrate by informing him about his knowledge of and history with Rowland and about the tips he had received regarding Rowland in the past. (R. pp. 24-25; p. 35). The magistrate then issued a search warrant authorizing a search of Rowland's home. (R. p. 40; p. 82; pp. 240-246).

Shortly thereafter, officers from the Charleston Police Department executed the search warrant at 31 Woodleaf Court while Rowland and his parents, who also lived in the home, were detained outside. (R. p. 26; pp. 40-42; p. 82; pp. 84-85). During the officers' search of the residence, they located pictures of Rowland with one of his children, letters addressed to Rowland at 31 Woodleaf Court, a notebook containing a ledger, multiple cellular phones, and a box of plastics bags in one of the residence's bedrooms. (R. pp. 87-89; p. 135; p. 146). Additionally, in that same bedroom, the officers found a digital scale on top of a dresser along with a bag of cocaine and two more digital scales hidden in the dresser's drawers. (R. pp. 88-89; pp. 135-136). Likewise, the officers located a .45-caliber pistol and a book entitled "Criminal Procedure Guide for Drug Agents" on a bookshelf near the bed and a plastic container containing individually-packaged quantities of marijuana near a television. (R. p. 71; pp. 89-90; pp. 145-146). Furthermore, the officers found a brown bag behind the bedroom door with two plastic bags of cocaine inside. (R. p. 90; pp. 145-147). One of those plastic bags contained thirty-four grams of cocaine, and the other plastic bag contained twenty-one smaller bags that each contained roughly a gram of cocaine. (R. pp. 145-147).

Based on their discoveries during the search, the officers secured the incriminating evidence, and Rowland was placed under arrest. (R. p. 63; p. 65; p. 67; p. 72; pp. 136-137; pp. 147-148). Rowland was then searched incident to his arrest, and the officers discovered over \$1,500 in cash in Rowland's pockets. (R. p. 91). Thereafter, the drugs discovered during the search were transported to the Charleston Police Department's crime lab and analyzed by Elizabeth Mitchell, an expert in drug analysis. (R. pp. 116-119). Based on her analysis, Mitchell determined the drugs found in Rowland's residence during the search consisted of a total of 9.19 grams of marijuana and 57.45 grams of cocaine. (R. pp. 131-132).

Subsequently, Rowland was indicted for multiple offenses, including trafficking in cocaine and possession of marijuana with intent to distribute, and he proceeded to trial. (R. pp. 16-18; pp. 232-239). Shortly after the trial began, defense counsel preliminarily moved for the evidence discovered in Rowland's case to be suppressed, and the trial judge conducted an in limine hearing on that motion. (R. pp. 12-13; p. 19). During the hearing, Investigator Sumner detailed his role in the investigation and confirmed he witnessed what appeared to be a hand-to-hand drug transaction between Rowland and another individual outside of the residence located at 31 Woodleaf Court shortly before they obtained a search warrant for that address. (R. pp. 19-28). Likewise, Sergeant Ratliffe testified about the tips he received in regard to Rowland's activities and the surveillance of Rowland's residence, confirmed he observed a hand-to-hand drug transaction involving Rowland, and noted he prepared the search warrant affidavit used to obtain the search warrant for Rowland's home. (R. pp. 29-34). Regarding that affidavit, the officer stated it contained accurate information about his investigation and correctly identified 31 Woodleaf Court as the location to be searched. (R. p. 34; p. 43). However, Sergeant Ratliffe

noted the affidavit mistakenly listed an entirely unrelated address a single time due to his use of a search warrant template when preparing the affidavit. (R. pp. 34-35; p. 43).

At the conclusion of the in limine hearing, defense counsel asked the trial judge to suppress the evidence discovered during the search of Rowland's home. (R. pp. 44-45). In seeking that relief, defense counsel noted the search warrant affidavit contained at least one error, asserted there was nothing inherently suspicious about riding a bicycle, and contended the "only real substance" to the officers' surveillance was their observation of what appeared to be a hand-to-hand drug transaction between Rowland and another individual. (R. pp. 44-45). In rebuttal, the solicitor asserted the search warrant affidavit correctly identified the address of Rowland's residence numerous times and only incorrectly listed an unrelated address a single time due to a scrivener's error. (R. pp. 45-46). The solicitor further argued the information contained in the affidavit, including the information about the observed hand-to-hand drug transaction, established a probable cause basis supporting the issuance of the search warrant. (R. pp. 46-47). After listening to the solicitor's argument on the issue, defense counsel asserted to the trial judge he hated "to have to agree with my colleague[.]" (R. p. 47). The trial judge then denied the in limine suppression motion, explaining:

Based on the totality of the circumstances, it's clear that the reference to the [entirely unrelated Charleston address] was a scrivener's error. The correct address, 31 Woodleaf [Court], is referenced several times in here, and that was obviously just a scrivener's error.

The totality of the circumstances is that they had a reason to be observing Mr. Rowland, the defendant's house. They witnessed – or they – based on tips that he had been drug dealing, et cetera, that's what got them to observe that house. They then witnessed at least one transaction, possibly two, on drugs. One was the bicycle, but, more importantly, the one was the one with the car.

They then stopped that person in driving the car who said yes, I bought drugs just a short time before from the defendant. That gets the search warrant and gives

them information that is sufficient to rise to the level of probable cause to issue the warrant, so the search warrant is valid.

(R. pp. 48-49).

Following the trial judge's ruling, the trial proceeded forward, and Detective Jennifer Habbestad of the Charleston Police Department testified first for the prosecution. (R. p. 53). During her testimony, Detective Habbestad indicated she was involved in the search of Rowland's home on June 3, 2011, received the items discovered during the search from other officers, packaged the items appropriately into bags, transported those items to a secure evidence locker once the search was completed, and secured them in the locker. (R. pp. 53-58; p. 63; p. 65; p. 67).

Thereafter, Randall Unterbrink, a crime scene technician with the Charleston Police Department, testified for the State and stated he recovered the gun found during the search of the residence. (R. pp. 68-70). The gun was then admitted into evidence without objection after Unterbrink confirmed it was the same gun he recovered during the search and was in substantially unchanged condition. (R. pp. 71-72).

Following Unterbrink's testimony, Sergeant Ratliffe testified about the investigation into Rowland's drug activity and the search of Rowland's home. (R. pp. 81-82). Specifically, Sergeant Ratliffe stated he observed a hand-to-hand drug transaction involving Rowland on June 3, 2011, and obtained a search warrant for Rowland's home. (R. pp. 81-82; p. 84; p. 111). After that, Sergeant Ratliffe indicated he and other officers searched the residence and located cocaine, marijuana, a stolen gun, multiple digital scales, and other items, including mail addressed to Rowland, in Rowland's upstairs bedroom.<sup>3</sup> (R. pp. 86-90; p. 99; p. 104).

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<sup>3</sup> During his testimony, Sergeant Ratliffe indicated Rowland's parents' bedroom was located downstairs in the home while Rowland's bedroom was located upstairs. (R. p. 87; p. 105). In

Subsequent to that testimony, Mitchell testified about her analysis of the drugs recovered during the search of Rowland's residence and stated she received the drugs from an evidence technician at the Charleston Police Department before conducting her analysis. (R. pp. 116-117; p. 120). Mitchell then presented the results of her analysis to the jury and confirmed the substances recovered during the search were cocaine and marijuana. (R. pp. 131-132).

Following Mitchell's testimony, both Investigator Sumner and Officer William Olson of the Charleston Police Department testified about their roles in the search of Rowland's home and the items they found during the search, which included the bags of marijuana and cocaine. (R. pp. 134-136; pp. 145-147). Additionally, both officers confirmed they collected the evidence they discovered during the search and turned it over to Detective Habbestad. (R. pp. 136-137; pp. 147-148). During Officer Olson's testimony, the solicitor moved to admit into evidence the digital scales, ledger, plastic bags, and letters discovered by the officer, and that evidence was admitted without objection after the officer confirmed those items were the same items he collected and were all in substantially unchanged condition. (R. pp. 137-138). Likewise, during Investigator Sumner's testimony, the solicitor moved to admit into evidence the criminal procedure book the officer discovered in Rowland's bedroom, and the book was admitted without objection after the officer confirmed it was the same book he found and was in substantially unchanged condition. (R. p. 148).

Subsequently, Linda Wilson, an evidence technician at the Charleston Police Department, testified she personally retrieved the evidence Detective Habbestad secured in the evidence locker following the search of Rowland's residence and then secured it in an evidence control

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identifying the upstairs bedroom as Rowland's bedroom, Sergeant Ratliffe noted it contained multiple items linked to Rowland, including a bank statement addressed to Rowland at 31 Woodleaf Court. (R. pp. 87-88; p. 104).

room. (R. pp. 153-154). After that, Wilson indicated the drugs remained secured until they were retrieved by Mitchell for analysis. (R. p. 155). The solicitor then moved for the cocaine and marijuana to be admitted into evidence, and defense counsel responded: “Your Honor, they’ve linked the chain.” (R. p. 155). The trial judge then admitted the drugs into evidence without objection. (R. p. 155).

Thereafter, the State rested its case, and defense counsel moved for a directed verdict on all of the charges. (R. pp. 175-176). In support of that motion, defense counsel asserted the solicitor failed to “make out a prima facie case” in regard to the drug charges, the solicitor only presented evidence of constructive possession at best in regard to the possession of a weapon during the commission of a violent crime charge, and the solicitor presented no evidence establishing the knowledge required to prove Rowland’s guilt for the possession of a stolen pistol charge. (R. p. 176). In rebuttal, the solicitor argued the evidence presented during trial was sufficient to establish Rowland’s guilt for each of the indicted offenses. (R. pp. 177-178). After considering those arguments, the trial judge granted the directed verdict motion on the stolen pistol charge and denied the motion on the remaining charges. (R. p. 179).

Subsequently, at the conclusion of trial, the jury convicted Rowland of trafficking in cocaine, possession of marijuana with intent to distribute, and possession of a firearm during the commission of a violent crime. (R. pp. 217-218). Following the verdict, the trial judge sentenced Rowland to an aggregate twenty-year term of imprisonment. (R. pp. 230-231). Rowland then timely filed an appeal, and, on appeal, his appellate counsel raised two separate contentions to the Court of Appeals in Rowland’s appellate brief: (1) the trial judge allegedly erred in denying the suppression motion due to the fact the search warrant was not supported by probable cause; and (2) the trial judge allegedly erred in denying the motion for a directed

verdict due to the fact there was insufficient evidence presented to establish Rowland was in constructive possession of his drugs. (App. Br. pp. 8-20).

Thereafter, after considering the matter, the Court of Appeals issued an unpublished opinion affirming Rowland's convictions and sentence. State v. Rowland, Op. No. 2017-UP-225 (S.C. Ct. App. filed May 24, 2017). In affirming, the Court of Appeals solely addressed the two issues properly raised in Rowland's appellate brief and found the trial judge committed no error by either denying the suppression motion or denying the directed verdict motion. State v. Rowland, Op. No. 2017-UP-225 (S.C. Ct. App. filed May 24, 2017).

Following the issuance of the Court of Appeals's opinion, Rowland's appellate counsel filed a petition for rehearing, but the petition was denied. (Pet. for Reh. pp. 1-2; Order, dated Sept. 22, 2017). Subsequently, Rowland filed a pro se petition for a writ of certiorari with this Court. (Pet. for Cert. pp. 1-25). Through that petition, Rowland, who is currently identifying himself as the Attorney General of the Global Theocratic State, has raised a total of ten separate issues. (Pet. for Cert. pp. 2-5; p. 9). Although the issues raised by Rowland are difficult to decipher, it appears he is now arguing: (1) the Court of Appeals erred by engaging with other parties, including the South Carolina Attorney General, in a conspiracy designed to "prevent the legal issues of religious prophesy from obtaining fair and proper review" on appeal; (2) the Court of Appeals erred by not permitting his "fiduciary heir" to enter the appellate process in his case; (3) the Court of Appeals erred along with the trial judge by permitting the State to establish a chain of custody through testimony alone; (4) the Court of Appeals erred by validating the search warrant issued in his case; (5) the trial judge erred in some ambiguous manner in regard to the indictments issued in in his case and in the unrelated cases of several other individuals; (6) the trial judge erred in regard to the indictments because they were allegedly insufficient to properly

charge the indicted offenses; (7) the trial judge erred in some manner in connection to jurisdiction and a continuance order; (8) the trial judge erred by allowing “constructive amendment” of the indictments at his “trial and or plea hearing;” (9) this Court engaged in intentional acts of fraud, “essentially establish[ed] modern day slavery,” and conspired to strip him and others of the right to vote through its allegedly erroneous decision in State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005), which purportedly voided jurisdiction over his case; and (10) this Court somehow erred due to the fact same-sex marriage is permitted in South Carolina. (Pet. for Cert. pp. 11-25).

## ARGUMENT

### I.

**To the extent Rowland is challenging the appellate decision related to the admission of the evidence discovered during the search of his residence, the Court of Appeals correctly affirmed the trial judge's evidentiary ruling on that matter because Rowland's issue was not properly preserved for appellate review and because the information contained in the search warrant affidavit provided the magistrate who issued the search warrant with a substantial basis upon which he could conclude there was a fair probability drugs and other incriminating evidence would be found at Rowland's residence at the time of the search.**

Through one of the issues raised in his petition for a writ of certiorari, Rowland arguably appears to be challenging the Court of Appeals's decision to affirm the ruling admitting the evidence discovered during the search of his residence. In challenging that decision, Rowland appears to maintain the issue was preserved for appellate review and the search warrant should have been invalidated. To the contrary, Rowland's issue with the admission of the incriminating evidence was not properly preserved for appellate review because, during trial, defense counsel expressly waived any objection he may have had to the evidence by stating he had no objection to the majority of the evidence when it was introduced and by assuring the trial judge the solicitor had completed the steps necessary to admit the marijuana and cocaine. Moreover, notwithstanding any issue preservation concerns, the trial judge properly denied Rowland's suppression motion because the search warrant affidavit contained sufficient information to establish a substantial basis upon which the magistrate could find probable cause existed for the search. Accordingly, the Court of Appeals correctly affirmed Rowland's convictions. Rowland's petition for a writ of certiorari should be denied.

#### **A. Issue Preservation**

Generally, a motion in limine seeks a pre-trial evidentiary ruling to prevent the disclosure of potentially prejudicial evidence to the jury, and a ruling on such a motion is preliminary,

subject to change based on developments during trial, and not a final ruling on the admissibility of the challenged evidence. State v. Smith, 337 S.C. 27, 32, 522 S.E.2d 598, 600 (1999); see State v. Simpson, 325 S.C. 37, 42, 479 S.E.2d 57, 60 (1996) (“A ruling in limine is not a final ruling on the admissibility of evidence.”). As a result, even if a pre-trial objection has been raised, a defendant must object at the time evidence is introduced during trial in order to preserve an issue with the evidence’s admission for appellate review. State v. Schumpert, 312 S.C. 502, 507, 435 S.E.2d 859, 862 (1993); see State v. Griffin, 339 S.C. 74, 77, 528 S.E.2d 668, 669 (2000) (“[A]n in limine ruling is not final and does not preserve the issue for appeal.”). “However, where a judge makes a ruling on the admission of evidence on the record **immediately prior to** the introduction of the evidence in question, the aggrieved party does not need to renew the objection.” State v. Forrester, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001) (emphasis added). Significantly, that exception “is based on the fact that when the trial court’s ruling is not preliminary, but instead is clearly a final ruling, there is no need to renew the objection.” State v. Wiles, 383 S.C. 151, 156-157, 679 S.E.2d 172, 175 (2009).

In the case sub judice, defense counsel raised a pre-trial motion in limine seeking for the evidence discovered in the search of Rowland’s home to be suppressed, and the trial judge issued a preliminary ruling denying Rowland’s motion at the conclusion of a pre-trial hearing on the matter. Thereafter, during trial, the solicitor moved to admit the cocaine, marijuana, and other incriminating evidence discovered during the search of Rowland’s home through various witnesses – none of whom were the first to testify. Each time the solicitor did so, defense counsel did **not** renew his pre-trial suppression motion and did **not** raise any other objections to the admission of that evidence. Instead, defense counsel directly stated he had no objection to the majority of the evidence and assured the trial judge the solicitor had satisfied the chain of

custody requirements in regard to the marijuana and cocaine when the drugs were offered into evidence. Thus, in Rowland's case, the only objection raised to the admission of the incriminating evidence discovered during the search of Rowland's residence was raised through a pre-trial motion in limine, the trial judge only ruled on the admissibility of that evidence in a preliminary fashion at the conclusion of a pre-trial in limine hearing, and defense counsel expressly waived any objection he had to the evidence when it was later introduced during trial. See State v. Dicapua, 373 S.C. 452, 455, 646 S.E.2d 150, 152 (Ct. App. 2007) ("Dicapua's sole objection to the videotape came in the form of a motion in limine to suppress the videotape because of its lack of audio. Once the State moved to enter the videotape into evidence and publish it to the jury, however, Dicapua's counsel specifically stated he had 'no objection.' We find this amounted to a waiver of any issue Dicapua had with the videotape."); see also State v. Stokes, 339 S.C. 154, 163, 528 S.E.2d 430, 434 (Ct. App. 2000) ("[T]he record reflects that this issue was only raised and ruled on in limine. Stokes never raised the issue again at any time during the trial. Merely raising an argument in limine does not preserve the issue for appellate review."). Under those circumstances, any issue regarding the admission of the marijuana, cocaine, and other incriminating evidence was not properly preserved for appellate review and could not properly be raised or addressed on appeal. See State v. Head, 330 S.C. 79, 87, 498 S.E.2d 389, 393 (Ct. App. 1997) (instructing an appellate court "cannot address unpreserved errors"). Accordingly, the Court of Appeals correctly affirmed Rowland's convictions on appeal. Rowland's petition for a writ of certiorari should be denied.

#### **B. Propriety of the Search Warrant**

The Fourth Amendment of the United States Constitution protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches

and seizures.” U.S. Const. amend. IV. Generally, in order for a search to be reasonable under the Fourth Amendment, a law enforcement officer must obtain a search warrant prior to conducting the search. Robinson v. State, 407 S.C. 169, 185, 754 S.E.2d 862, 870 (2014). In South Carolina, an officer seeking to obtain a search warrant must present a sworn affidavit to a judge presenting grounds sufficient to establish probable cause in order to justify the issuance of the warrant. State v. Bellamy, 336 S.C. 140, 143, 519 S.E.2d 347, 348-349 (1999); see S.C. Code Ann. § 17-13-140 (“A warrant issued hereunder shall be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record establishing the grounds for the warrant.”); see also Illinois v. Gates, 462 U.S. 213, 238 (1983) (identifying probable cause as “a fair probability that contraband or evidence of a crime will be found”). In State v. Williams, 262 S.C. 186, 189, 203 S.E.2d 436, 437-438 (1974), this Court explained probable cause as it relates to the issuance of a search warrant:

In order to justify the issuance of a search warrant, probable cause must be shown, but the term ‘probable cause’ does not import absolute certainty. In determining whether there is sufficient evidence to sustain a finding of probable cause, each case stands on its own facts. The evidence need not be sufficient to support a conviction, or a verdict of guilty, or to establish guilt beyond a reasonable doubt; nor need the proof be positive, it being enough if it is such as to induce in the mind of the issuing officer an honest belief that the facts set forth exist, or as would lead a man of prudence to believe that the offense has been committed.

(citing State v. Bennett, 256 S.C. 234, 182 S.E.2d 291 (1971)).

In deciding whether to issue a search warrant, the issuing judge must “make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the ‘veracity’ and ‘basis of knowledge’ of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.” Gates, 462 U.S. at 238. In making the probable cause determination, “[issuing judges] are concerned with probabilities and not certainties.” State v. Sullivan, 267 S.C. 610, 617, 230

S.E.2d 621, 624 (1976). Furthermore, the issuing judge must view the warrant affidavit in a common-sense and realistic fashion and give consideration to the fact such affidavits are typically prepared by non-lawyers in the haste of criminal investigations. State v. Arnold, 319 S.C. 256, 260, 460 S.E.2d 403, 405 (Ct. App. 1995); see United States v. Ventresca, 380 U.S. 102, 108 (1965) (“Technical requirements of elaborate specificity once exacted under common law pleadings have no proper place [when evaluating the sufficiency of search warrant affidavits].”).

When reviewing a decision to issue a search warrant, a reviewing court should decide whether the issuing judge had a substantial basis for concluding probable cause existed. State v. Dupree, 354 S.C. 676, 683, 583 S.E.2d 437, 441 (Ct. App. 2003). Applying the same standard as the issuing judge, the court should base its determination on the totality of circumstances and afford great deference to the issuing judge’s probable cause determination. State v. Keith, 356 S.C. 219, 223, 588 S.E.2d 145, 147 (Ct. App. 2003). Significantly, “[s]earches based on warrants will be given judicial deference to the extent that an otherwise marginal search may be justified if it meets a realistic standard of probable cause.” Dupree, 354 S.C. at 683-684, 583 S.E.2d at 441; see Ventresca, 380 U.S. at 106 (“[I]n a doubtful or marginal case a search under a warrant may be sustainable where without one it would fall.”). “Suppression is appropriate in only a few situations, including when an affidavit is ‘so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable.’ ” State v. Weston, 329 S.C. 287, 293, 494 S.E.2d 801, 804 (1997) (quoting United States v. Leon, 468 U.S. 897, 923 (1984)).

In the case at bar, the information included in the search warrant affidavit established the officers had received numerous tips in regard to drug activity taking place at 31 Woodleaf Court. Cf. State v. Kinloch, 410 S.C. 612, 618, 767 S.E.2d 153, 156 (2014) (finding the receipt of

numerous tips regarding drug activity to be relevant under the totality of the circumstances towards establishing a probable cause basis for a search). Additionally, the information in the search warrant affidavit established the officers corroborated those tips by conducting surveillance and observing Rowland engaged in what appeared to be drug transactions to the trained and skilled officers. See id. (finding a substantial basis for probable cause existed where the officers observed “**seemingly** drug-related behavior” (emphasis added)); State v. Adams, 291 S.C. 132, 134, 352 S.E.2d 483, 485 (1987) (“[T]he evidence of a contemporaneous drug deal cited in the warrant’s supporting affidavit was a sufficient basis for the determination of probable cause under the totality of the circumstances.”); see also United States v. Cortez, 449 U.S. 411, 418 (1981) (“[A] trained officer draws inferences and makes deductions – inferences and deductions that might well elude an untrained person.”). Furthermore, the information in the search warrant affidavit established the officers stopped the driver of a vehicle who had just engaged in a hand-to-hand transaction with Rowland, discovered marijuana and cocaine during that stop, and were informed by the driver he had just purchased the drugs from Rowland at 31 Woodleaf Court. See Keith, 356 S.C. at 224, 588 S.E.2d at 147 (“We find the portion of the affidavit related to the investigative surveillance, stop, and seizure of illegal drugs from Keith’s car standing along sets forth sufficient information to support a probable cause finding in this case.”); see also State v. Jenkins, 790 So. 2d 626, 627 (La. 2001) (holding a search warrant authorizing a search of a residence was properly issued and supported by probable cause where the investigating officers included information in the search warrant affidavit establishing they observed what appeared to be a hand-to-hand transaction take place on the porch of the targeted residence, they stopped a person involved in the transaction after that person left the residence, and they seized a plastic bag containing vegetable matter from that person).

Based on that information, the magistrate reasonably concluded – and had a substantial basis to conclude – there was a fair probability drugs and other incriminating evidence would be found at Rowland’s residence. See Kinloch, 410 S.C. at 618, 767 S.E.2d at 156 (“We find based on these facts that the Court of Appeals erred in affirming the circuit court’s suppression ruling as the magistrate had a substantial basis for reaching his probable cause determination.”); cf. United States v. Rose, 321 F. App’x 324, 326-327 (4th Cir. 2009) (finding probable cause for the issuance of a search warrant existed where officers conducted surveillance at the targeted residence, observed traffic consistent with drug activity there, stopped an individual who left the residence shortly after arriving, and were advised by the individual he had just purchased crack cocaine from the residence). As a result, the magistrate was justified in issuing the search warrant for Rowland’s residence, the trial judge properly denied Rowland’s motion to suppress the evidence discovered during the search of the residence, and the Court of Appeals correctly affirmed Rowland’s convictions. See Dupree, 354 S.C. at 691, 593 S.E.2d at 445 (“The magistrate had ample probable cause to issue the warrant. Given all the circumstances set forth in the affidavit, there was a ‘fair probability’ that crack cocaine would be found in the mobile home.”); see also Gates, 462 U.S. at 238 (“The task of the issuing magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the ‘veracity’ and ‘basis of knowledge’ of persons supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.”). Rowland’s petition for a writ of certiorari should be denied.

## II.

**Aside from the issue related to the admission of the evidence discovered during the search of his residence, none of the other issues raised in Rowland's petition for a writ of certiorari were even arguably raised to the Court of Appeals, and, therefore, none of those issues can appropriately be raised to this Court through a petition for a writ of certiorari.**

In addition to his arguable challenge to the Court of Appeals's decision to affirm the ruling admitting the evidence discovered during the search of his residence, Rowland appears to be attempting to raise a total of nine other issues through his petition for a writ of certiorari. Amongst those issues, Rowland appears to be maintaining his indictments were somehow invalid, multiple judges engaged in a conspiracy related to a religious prophesy, the trial judge erred in a variety of different ways that were never previously raised on appeal, and this Court somehow erred in connection to same-sex marriage and another unrelated case while also engaging in acts of intentional fraud. Importantly, none of those issues was raised to the Court of Appeals. Therefore, those issues cannot properly be raised to this Court through a petition for a writ of certiorari under the mandates of the South Carolina Appellate Court Rules. Accordingly, Rowland's petition for a writ of certiorari should be denied.

Pursuant to our appellate court rules, this Court may exercise its discretion to issue a writ of certiorari to "review a final decision of the Court of Appeals." Rule 242(a), SCACR. When seeking the issuance of a writ of a certiorari by this Court after the Court of Appeals issues an appellate decision, a petitioner in South Carolina is limited to raising **only** the issues raised to the Court of Appeals. See Rule 242(d)(2), SCACR ("Only those questions raised in the Court of Appeals and in the petition for rehearing shall be included in the petition for writ of certiorari as a question presented to the Supreme Court."). Significantly, if an issue was not presented to the Court of Appeals in the proper manner, it **cannot** appropriately be raised in a petition for a writ of certiorari. See Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) ("[T]he

South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.”); see also JEAN HOEFER TOAL ET AL., APPELLATE PRACTICE IN SOUTH CAROLINA 77 (2nd ed. 2002) (“There are two prerequisites to preserving an issue for consideration by the Supreme Court on a writ of certiorari: (1) the issue must have been raised in the initial arguments to the Court of Appeals, and (2) the issue must have been raised in the petition for rehearing before the Court of Appeals.”); cf. Herron v. Century BMW, 395 S.C. 461, 469, 719 S.E.2d 640, 644 (2011) (“[A] party may not raise an issue for the first time in a petition for rehearing.”).

In Rowland’s case, Rowland’s appellate counsel raised two issues and two issues alone to the Court of Appeals – one involving a challenge to the trial judge’s ruling on the admission of evidence discovered in a search of Rowland’s home and another involving a challenge to the trial judge’s ruling on Rowland’s directed verdict motion. Thereafter, the Court of Appeals issued a decision solely addressing the two issues raised by appellate counsel, Rowland’s appellate counsel petitioned for rehearing in connection solely to the two issues he had previously raised, and the Court of Appeals denied that petition. Now, through his pro se petition for a writ of certiorari, Rowland is seeking to raise numerous issues to this Court that were never properly raised at any point to the Court of Appeals.<sup>4</sup> Many of those issues do not relate to his criminal convictions in any way, and some even allege errors on the part of this Court that could not have any logical connection of any kind to Rowland’s criminal activities. Accordingly, because the vast majority of Rowland’s issues in his pro se petition for a writ of certiorari were never

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<sup>4</sup> To the extent any of Rowland’s muddled issues could be construed as questioning the trial judge’s subject matter jurisdiction over his case, the trial judge indisputably had subject matter jurisdiction to try Rowland for his criminal charges. See State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) (“Circuit courts obviously have subject matter jurisdiction to try criminal matters.”).

presented to or ruled upon by the Court of Appeals, those issues simply cannot properly be considered or addressed now by this Court. See Rule 242(d)(2), SCACR (“Only those questions raised in the Court of Appeals and in the petition for rehearing shall be included in the petition for writ of certiorari as a question presented to the Supreme Court.”); see also State v. Burton, 356 S.C. 259, 265, n. 5, 589 S.E.2d 6, 9 (2003) (“A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”); see generally Roche v. South Carolina Alcoholic Beverage Control Comm’n, 263 S.C. 451, 455, 211 S.E.2d 243, 244 (1975) (“[T]he purpose of appeal under our procedure is ‘to determine if the lower court did something that it should not have done, or omitted doing something it should have done.’ Accordingly, a trial judge will not be reversed for failing to act on a matter that was not submitted to him.” (citation omitted)). Rowland’s petition for a writ of certiorari should be denied.

**CONCLUSION**

For all the foregoing reasons, it is respectfully submitted the petition for a writ of certiorari should be denied.

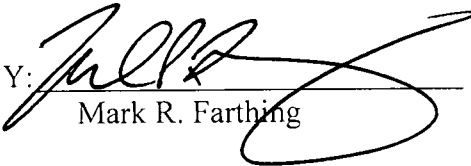
Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

December 15, 2017

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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On Writ of Certiorari to the Court of Appeals  
Appeal from Charleston County  
Honorable Roger M. Young, Sr., Circuit Court Judge  
Appellate Case No. 2017-002108

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THE STATE,

Respondent,

vs.

JOSEPH TODD ROWLAND,

Petitioner.

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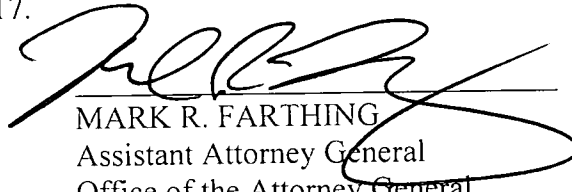
**PROOF OF SERVICE**

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I, Mark R. Farthing, certify I have served the within Return to Petition for Writ of Certiorari on Petitioner by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Joseph Todd Rowland, # 290065  
Lieber C.I., Wando B-239  
Post Office Box 205  
Ridgeville, South Carolina 29472

I further certify that all parties required by Rule to be served have been served.  
This 15th day of December, 2017.

  
MARK R. FARTHING  
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