STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Court of General Sessions

The Honorable Clifton Newman, Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2015-001867

THE STATE,

Respondent,

v.

WILLIAM CRAIG CAUGHMAN,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

I.

The trial judge properly denied Appellant's motion to suppress evidence obtained during the search of his property where a SLED agent with statewide jurisdiction was present for the execution of the warrant. Furthermore, even if none of the officers involved in the execution of the search warrant had jurisdiction, the appropriate remedy is not application of the exclusionary rule and suppression of the evidence.

II.

The trial judge did not abuse his discretion in sentencing Appellant to imprisonment for a term of twenty years where the sentence fell within the permissible statutory limits and Appellant failed to provide evidence that partiality, prejudice, oppression, or corrupt motive factored into the sentence.

STATEMENT OF THE CASE

Appellant was indicted during the May 2013 term of the Grand Jury for Lexington County for hit and run accident resulting in death (2010-GS-32-02294). Appellant proceeded to a trial by jury from May 20-23, 2013, in Lexington, South Carolina. At the conclusion of trial, Appellant was found guilty as indicted. He was sentenced by the Honorable Clifton Newman to imprisonment for a term of twenty years. Appellant timely filed a notice of appeal and subsequently submitted a brief. This Brief of Respondent follows.

STATEMENT OF FACTS

Officer Marion Green of the Cayce Department of Public Safety was dispatched to the scene of a hit and run at 10:08 p.m. on February 21, 2010. Tr. Vol. 1. pp. 113-14. When he arrived at the scene, Officer Green observed a heavily damaged motorcycle and the victim, Frederick Morris, laying in the road. Tr. Vol. 1 p. 114. Officer Green testified the road was littered with parts from Mr. Morris's motorcycle. Tr. Vol. 1 p. 116. Mr. Morris was able to tell Officer Green his name but was unable to recall any details of the accident. Tr. Vol. 1 p. 114-15. Kevin Washington, a witness at the scene, told Officer Green he observed a red Ford Ranger driving down 9th Street and he believed that was the vehicle that struck Mr. Morris's motorcycle. Tr. Vol. 1 p. 115. Officer Green noted the street lights could influence someone's perception of color at the scene, as they project an amber color. Tr. Vol. 1 pp. 124-25.

Jennifer Prather, a friend of Mr. Morris, received a phone call from Lexington Medical Center around 3:00 a.m. on the evening of the incident informing her that he was in the emergency room. Tr. Vol. 1 p. 88. Ms. Prather described Mr. Morris as "pretty beat up," and noted he was treated for body fractures. Tr. Vol. 1 p. 88-89. Ms. Prather also described Mr. Morris's condition as, "he had a lot of injuries." Tr. Vol. 1 p. 92. Ms. Prather continued to visit Mr. Morris "around the clock" for the next week while he was hospitalized. Tr. Vol. 1 p. 92. The night before he was due to be discharged, Mr. Morris passed away. Tr. Vol. 1 p. 93.

Dr. Elizabeth Moffatt, a pathologist at Lexington Medical Center, conducted an autopsy on Mr. Morris. Tr. Vol. 2 p. 195. Dr. Moffatt testified there was evidence of trauma to Mr. Morris's body. Tr. Vol. 2 p. 206. Mr. Morris's injuries included bilateral rib fractures, thoracic vertebral fractures in his spinal column, a fracture at the base of his skull, pulmonary contusions, a left wrist fracture, and hematomas. Tr. Vol. 2 pp. 207-08. Dr. Moffatt testified this litany of

injuries would necessitate the patient being at least partially immobile while being treated. Tr. Vol. 2 p. 208. Dr. Moffatt testified Mr. Morris's cause of death was a pulmonary embolism. Tr. Vol. 2 p. 210. Dr. Moffatt explained that a pulmonary embolism is a blood clot that travels through the blood stream until it is stopped somehow. Tr. Vol. 2 pp. 210-11. Dr. Moffett stated the most common cause of a blood clot is immobility. Tr. Vol. 2 p. 211. Dr. Moffett further stated trauma and surgery relate to risk factors for a blood clot. Tr. Vol. 2 p. 212. Dr. Moffatt testified it was her opinion to a reasonable degree of medical certainty that the blood clot that killed Mr. Morris was a result of trauma sustained in an automobile collision on February 21, 2010. Tr. Vol. 2 p. 212.

Mr. Morris's motorcycle was subsequently transported to SLED on March 3, 2010, for analysis. Tr. Vol. 2 p. 227. Mike Moskal, a trace evidence analyst for SLED, performed a visual examination of the motorcycle and was able to observe foreign paint embedded between the wheel and the rim of the front tire. Tr. Vol. 2 p. 230. Moskal was able to determine the paint on the motorcycle was an original manufacturer's paint from another vehicle. Tr. Vol. 2 p. 232. The vehicles that were painted with the particular paint found on Mr. Morris's motorcycle were Ford Rangers manufactured from 1999 to 2001, Ford S series vehicles manufactured from 1998 to 2001, Ford Escorts manufactured from 1998 to 1999, Ford Expeditions manufactured from 1998 to 2001, Ford Focuses manufactured from 2000 to 2001, Mercury Tracers manufactured from 1998 to 1999, and Lincoln Navigators manufactured from 1998 to 2000 and 2002. Tr. Vol. 2 p. 233.

On March 10, 2010, Detective Edward Pereira of the Cayce Department of Public Safety was notified by SLED that they found foreign paint on Mr. Morris's motorcycle. Tr. Vol. 2 p. 152. Aside from knowing the suspect's vehicle was a Ford, Detective Pereira testified there were

no significant leads in the case until May 5, 2010. Tr. Vol. 2 p. 153. On May 5, 2010, SLED received a Crimestoppers tip stating Appellant was the culprit. Tr. Vol. 2 p. 154. The Crimestoppers tip was made by an individual named Lawrence Gilbert. Tr. Vol. 2 p. 155.

Lawrence Gilbert knew Appellant for almost his entire life. Tr. Vol. 2 p. 51. Gilbert testified they played baseball together, vacationed together, and were in each other's weddings. Tr. Vol. 2 p. 51. Gilbert went by Appellant's home on the afternoon of February 21, 2010. Tr. Vol. 2 pp. 51-52. Gilbert arrived sometime around 4:00 p.m. and stayed sometime between thirty and forty-five minutes. Tr. Vol. 2 p. 52. Gilbert noted he saw alcohol but did not remember anyone drinking. Tr. Vol. 2 p. 52. Gilbert subsequently left Appellant's house and did not see him at any point that evening. Tr. Vol. 2 pp. 52-53. Appellant called Gilbert the next afternoon and told him "he messed up or he had screwed up or something." Tr. Vol. 2 p. 53. Gilbert went to Appellant's home and found him sitting on the back porch. Tr. Vol. 2 p. 53. Appellant took Gilbert into the garage where his truck was parked and Gilbert observed, "the passenger window was broke. The side door was dented up. It seems like that the mirror was dangling down. I noticed that the bottom of the foot jam - - there was a dent about three inches wide and about three inches deep that was black." Tr. Vol 2. Pp. 53-54. Gilbert clarified all of the damage was to the passenger side of Appellant's truck. Tr. Vol. 2 p. 55. Appellant told Gilbert he went to eat and "was leaving and heading toward Columbia at Knotts-Abbott (sic). He said that he had stopped at the light. Nothing was coming and he said he turned and heard a loud bang. Tr. Vol. 2 p. 55. Gilbert asked Appellant whether he hit a car and Appellant replied, "I hit a fucking motorcycle." Tr. Vol. 2 p. 55.

Gilbert later saw a news report about the accident Appellant was involved in. Tr. Vol. 2 p. 56. Appellant told him he wished he didn't use his credit card when he paid for dinner because

they had a time that he was there.[1] Tr. Vol. 2 p. 57. Appellant later told Gilbert he removed the doors from his truck and buried them in his backyard. Tr. Vol. 2 p. 57. Appellant subsequently told Gilbert he moved them because law enforcement was searching for them and that they would never find the doors. Tr. Vol. 2 p. 57. Appellant later covered his truck with a white tarp. Tr. Vol. 2 p. 57. The news that Mr. Morris died affected Gilbert greatly, causing him to lose twenty pounds and affecting his ability to sleep. Tr. Vol. 2. p. 59. Gilbert noted that Appellant, "was hurt but it seemed like to me it was hurting me more than him." Tr. Vol. 2 p. 60. Gilbert testified he "stewed on it" for about two months before calling Crimestoppers. Tr. Vol. 2 p. 59.

Charles Campbell was also a neighbor and friend of Appellant. Tr. Vol. 2 p. 28. On the afternoon of February 21, 2010, Campbell spent the day doing yard work and drinking beer with Appellant. Tr. Vol. 2 p. 30-31. Campbell sent his wife to buy more beer at one point during the afternoon because they did not have enough at their home. Tr. Vol. 2 p. 31. Appellant subsequently left Campbell's home when it began to get dark outside. Tr. Vol. 2 p. 32. Two days later, Appellant called Campbell and asked if he could borrow one of his trucks because his truck was damaged on the passenger's side. Tr. Vol. 2 p. 33. Campbell noted Appellant drove a green Ford Ranger. Tr. Vol. 2 p. 33. Appellant told Campbell he went to get something to eat at Wal-Mart and was on Route 7 when he struck the motorcycle. Tr. Vol. 2 p. 36. Campbell later observed Appellant's truck in his garage and saw the damage. Tr. Vol. 2 p. 35. Campbell noted he worked in the towing industry and told Appellant his truck was totaled. Tr. Vol. 2 pp. 35-36. Appellant told Campbell that he thought he hit a motorcycle. Tr. Vol. 2 p. 36. Appellant told Campbell that in the event he was questioned by police, he would just tell them he hit the side of a truck. Tr. Vol. 2 p. 37. Campbell testified Appellant later moved the truck to his back yard and

[1] Peter Koutrakis, the owner of Hard Knocks Grill on Knox-Abbott Drive testified Appellant conducted a credit card transaction at the restaurant at 10:00 p.m. on the evening on February 21, 2010. Tr. Vol. 2 p. 77.

removed the vehicle's doors. Tr. Vol. 2 p. 40. Appellant's truck was later moved behind a tool shed and hidden under a tarp. Tr. Vol. 2 pp. 45-46.

After receiving the Crimestoppers tip, Detective Pereira, Lieutenant Jeffrey Simmons of the Cayce Department of Public Safety, and Agent Mike Robinson of SLED went to Appellant's home and observed a vehicle hidden underneath a tarp in the back of the residence. Tr. Vol. 2 p. 97, 100. The officers then went through a public field at the end of Appellant's street and could see that the vehicle underneath the tarp was the green Ford Ranger described in the tip. Tr. Vol. 2 p. 97. Officers subsequently obtained a search warrant and executed a search of Appellant's property on May 5, 2010. Tr. Vol. 2 p. 101. Lieutenant Simmons noted Agent Robinson was with the Cayce officers when they executed the search warrant. Tr. Vol. 2p. 105. Once the search warrant was executed, Appellant's vehicle was taken into custody. Tr. Vol. 2 p. 130. The truck was transported to the Cayce Department of Public Safety where SLED came and conducted forensic analysis. Tr. Vol. 2 p. 131.

Detective Pereira noted that the investigative team was never able to find the doors to Appellant's truck. Tr. Vol. 2 p. 163. After the search warrant was executed on May 5th, Detective Pereira and Agent Robinson went to Appellant's workplace to make contact with him. Tr. Vol. 2 p. 164. Detective Pereira and Agent Robinson subsequently interviewed Appellant at the Cayce Department of Public Safety. Tr. Vol. 2 p. 167. The audio of the interview was played for the jury. Tr. Vol. 2 p. 172. Detective Pereira noted the cuts to Appellant's vehicle were jagged and looked like someone hurriedly completed the task. Tr. Vol. 2. Pp. 174-75. Detective Pereira testified the damage to Appellant's truck was consistent with the vehicle colliding with a motorcycle. Tr. Vol. 2 p. 176.

At trial, the State called Clarissa Mack of the South Carolina Department of Motor Vehicles. Tr. Vol. 2 pp. 88-89. Ms. Mack confirmed Appellant owned a Ford Ranger on February 21, 2010. Tr. Vol. 2 p. 90. Interestingly, Appellant purchased a Jeep Wrangler on February 25, 2010. Tr. Vol. 2 p. 90. Ms. Mack noted the tag number on the Jeep was different than that of the Ranger. Tr. Vol. 2 pp. 90-91.

ARGUMENT

I.

The trial judge properly denied Appellant's motion to suppress evidence obtained during the search of his property where a SLED agent with statewide jurisdiction was present for the execution of the warrant. Furthermore, even if none of the officers involved in the execution of the search warrant had jurisdiction, the appropriate remedy is not application of the exclusionary rule and suppression of the evidence.

Relevant Facts

At trial, Defense Counsel moved to suppress the evidence obtained by law enforcement during the execution of the search warrant. Tr. Vol. 2 pp. 102-04. Defense Counsel averred the officers involved in the search did not have jurisdiction outside of the City of Cayce. Tr. Vol. 2 p. 104.

The trial judge then heard testimony *in camera* from Lieutenant Jeffrey Simmons, Agent Mike Robinson, Detective Edward Pereira, and Rick Collins, the magistrate who issued the search warrant. Tr. Vol. 2 pp. 105-29. During the hearing, Agent Robinson testified that SLED is an assisting agency that sometimes assists other law enforcement agencies. Tr. Vol. 2 p. 107. On February 28, 2010, Agent Robinson's lieutenant asked him to contact the Cayce Department of Public Safety and ask whether SLED could offer any assistance. Tr. Vol. 2 p. 108. Agent Robinson noted SLED has statewide jurisdiction, and that jurisdiction includes search warrants and arrest warrants.[2] Tr. Vol. 2 p. 108. Agent Robinson had knowledge of the Crimestoppers tip and spoke to law enforcement agents in Cayce on the day the tip was received. Tr. Vol. 2 p. 109.

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[2] S.C. Code Ann. § 23-3-15 (A) provides, in relevant part: "The South Carolina Law Enforcement Division shall have specific and exclusive jurisdiction and authority statewide, on behalf of the State, in matters including but not limited to the following functions and activities: (1) the investigation of organized criminal activities or combined state-federal interstate criminal activities, all general criminal investigations, arson investigation and emergency event management pertaining to explosive devices."

After the tip came in, Agent Robinson went with Detective Pereira and Lieutenant Simmons to try to view Appellant's property in order to corroborate the tip. Tr. Vol. 2 pp. 109-10. After observing a vehicle consistent with a Ford Ranger parked behind a tool shed, the officers obtained a search warrant the same day. Tr. Vol. 2 p. 110. Agent Robinson testified he was aware he would have jurisdiction at the property and was there for the initiation of the execution of the search warrant. Tr. Vol. 2 p. 111. The solicitor asked Agent Robinson, "the execution was initiated after it was actually obtained and signed by the Judge and brought to the crime scene?" Tr. Vol. 2 p. 112. Agent Robinson replied, "that's correct." Tr. Vol. 2 p. 112. The solicitor then asked, "were you present for that portion?" Tr. Vol 2 p. 112. Agent Robinson replied, "yes, and for a portion of the search of the property." Tr. Vol. 2 p. 112. Sometime during the search of the premises, Agent Robinson and another investigator left to make contact with Appellant at his place of employment. Tr. Vol. 2 pp. 111-12. Agent Robinson stated that while he was not familiar with the specific multi-jurisdictional agreement between Cayce and West Columbia, he knows it was a common practice in counties across the state. Tr. Vol. 2 p. 112.

Detective Pereira noted he was the lead agent in the case and requested assistance from SLED. Tr. Vol. 2 pp. 122-23. Detective Pereira testified he and Agent Robinson, "worked hand in hand in pretty much all aspects of it." Tr. Vol. 2 p. 123. Detective Pereira clarified Agent Robinson was aware that a search warrant was being obtained and assisted with the acquisition of the warrant. Tr. Vol. 2 p. 124. Detective Pereira stated Agent Robinson was present when the search warrant was present, and all requirements of the warrant were met. Tr. Vol. 2 p. 127. Detective Pereira added that having a SLED agent involved in the case had a significant impact on the investigation because SLED has jurisdiction throughout the entire State. Tr. Vol. 2 p. 125. Detective Pereira also testified that there is a multi-jurisdictional agreement between the City of

Cayce and other jurisdictions in Lexington County that encompasses all traffic-related violations, including hit and run cases. Tr. Vol. 2 p. 126. Detective Pereira stated Cayce and West Columbia were both jurisdictions that were included in the agreement. Tr. Vol. 2 p. 127. Importantly, Detective Pereira testified that the agreement was in effect at the time of the search and that, to his knowledge, the agreement was still in effect at the time of Appellant's trial. Tr. Vol. 2 p. 127.

During his *in camera* testimony, Lieutenant Simmons testified, "The warrant was obtained by myself and Investigator Jason Merrill. We met and he sought probable cause on the issue of the search warrant. . . . Agent Robinson was with us from SLED, and also we had notified West Columbia, and there is a metro agreement with West Columbia." Tr. Vol. 2 p. 105. Lieutenant Simmons testified he was unaware of any limitations that would prevent him from executing a warrant in West Columbia under the multi-jurisdictional agreement. Tr. Vol. 2 p. 105. Lieutenant Simmons testified West Columbia sent an officer, Officer Collins, to the location as they executed the search warrant. Tr. Vol. 2 p. 105-06.

Standard of Review

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001); State v. Butler, 353 S.C. 383, 388, 577 S.E.2d 498, 500 (Ct. App. 2003). "The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion." State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006); State v. Saltz, 346 S.C. 114, 551 S.E.2d 240 (2001). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." Pagan, 369 S.C. at 208, 631 S.E.2d at 265; State v. McDonald, 343 S.C. 319, 540 S.E.2d 464 (2000). "A trial judge has considerable latitude in ruling on the admissibility of evidence and his rulings will not be disturbed absent a showing of probable prejudice." State v.

Kelley, 319 S.C. 173, 176, 460 S.E.2d 368, 370 (1995). "Prejudice occurs when there is reasonable probability the wrongly admitted evidence influenced the jury's verdict." State v. Byers, 392 S.C. 438, 444, 710 S.E.2d 55, 58 (2011).

Discussion

Appellant contends the trial judge erred in denying his motion to suppress any evidence obtained during the search of his property because law enforcement lacked jurisdiction to execute a search warrant on the property. Appellant avers law enforcement lacked jurisdiction solely because the Eleventh Circuit Selective Traffic Enforcement Unit Agreement is defective in light of State v. Boswell, 391 S.C. 592, 707 S.E.2d 265 (2011), and State v. Burgess, 408 S.C. 421, 759 S.E.2d 407 (2014). This argument lacks merit. Any defect in the multi-jurisdictional agreement is immaterial where Agent Robinson, a SLED agent with statewide jurisdiction, was a key participant in the investigation and was on the scene when the search warrant was executed. In addition to correctly recognizing that they had jurisdiction to execute the warrant because they were accompanied by a SLED agent, the officers from the Cayce Department of Public Safety had an objectively reasonable belief that they also had jurisdiction pursuant to a valid multi-jurisdictional agreement, thus the good faith exception should preclude suppression.

Appellant's case is exceptionally similar to the circumstances present in State v. Hammond, 270 S.C. 347, 242 S.E.2d 411 (1978). In Hammond, the appellant maintained the search warrant was executed by officers without jurisdiction to conduct the search because the warrant was executed by officers from the City of Greenville Police Department and the location was outside the city limits in the county. The testimony at the hearing indicated Deputy Carter of the Greenville County Sheriff's Department accompanied the officers to Hammond's house, and he participated in the arrest and subsequent search. Id. at 353, 242 S.E.2d at 414. The Court

found the evidence Deputy Carter was present was sufficient to find the execution of the search warrant lawful. Id.

The Court referenced Kirby v. Beto, 426 F.2d 258 (5th Cir. 1970), *cert. den.*, 400 U.S. 919, 91 S.Ct. 181, 27 L.Ed.2d 159, in holding the search was lawful. The Court explained the facts of Kirby:

> There, a search warrant was issued to officers of the Dallas, Texas, City Police Department, authorizing a search of premises located in the city of Irving, Texas, outside of the Dallas city limits. The defendant argued that since the place to be searched was outside of the jurisdiction of the Dallas police officers, the execution of the search warrant constituted a denial of due process. The court held that the search warrant was executed by law enforcement officers with proper authority, since the Dallas police officers were accompanied by an Irving police officer who was present in the vicinity of the defendant's apartment at all times during the service and execution of the search warrant. See also, State v. Wise, 90 N.M. 659, 567 P.2d 970 (App.1977).

Hammond, 270 S.C. 347, 353-354, 242 S.E.2d 411, 414.

As in Hammond, the presence of Agent Robinson made the execution of the search warrant lawful regardless of whether there was a multi-jurisdictional agreement between Cayce and West Columbia or whether such agreement was valid in light of cases that were considered by appellate courts in the years after the search. The testimony in this case established Agent Robinson was an integral part of the investigation and worked "hand in hand" with Detective Pereira, the lead detective in the case. Agent Robinson was involved in the case when the Crimestoppers tip was received, helped corroborate the tip, was involved in the acquisition of a search warrant, was present when the search warrant was executed, and interviewed Appellant. Critically, the testimony of the officers conclusively established Agent Robinson was present when the search warrant was executed and the requirements of the warrant were all complied with.

The testimony clearly established a SLED agent with proper jurisdiction was involved in the search of Appellant's residence. The search warrant was signed by a magistrate with jurisdiction in Lexington County, and an officer with statewide jurisdiction was present for the search. Interestingly, Lieutenant Simmons also testified that the West Columbia police department sent an officer, Officer Collins, to Appellant's property and he arrived as the search warrant was executed. While the testimony on Officer Collins's arrival is sparse, a West Columbia officer would have undoubtedly had jurisdiction in West Columbia, in addition to Agent Robinson's statewide jurisdiction. Therefore, the trial court properly refused to suppress the warrant and evidence seized during its execution.[3]

Finally, even if this Court should find that the law enforcement officers did not have jurisdiction to effectuate the search of Appellant's property, the appropriate remedy is not the application of the exclusionary rule and the suppression of the evidence. The execution of a search warrant outside of the territorial jurisdiction of a municipal agency is not the kind of egregious constitutional violation that warrants the application of the exclusionary rule. See State v. Chandler, 267 S.C. 138, 143, 226 S.E.2d 553, 555 (1976) ("exclusion of evidence should be limited to violations of constitutional rights and not to statutory violations, at least where the appellant cannot demonstrate prejudice at trial resulting from the failure to follow statutory

[3] Furthermore, even if this Court should find that the officers in this case did not have jurisdiction to conduct the search, the good faith exception should preclude suppression because the officers had an objectively reasonable belief that they also had jurisdiction pursuant to a multi-jurisdictional agreement that was unquestionably valid at the time. The search in this case occurred in May of 2010, one year before the Supreme Court's opinion in Boswell one year later and four years before the Supreme Court's opinion in Burgess. The officers could reasonably believe that, while Agent Robinson clearly had jurisdiction, they also had jurisdiction in West Columbia because of the multi-jurisdictional agreement. Cf. United States v. Leon, 468 U.S. 897 (1984) (finding an officer's reliance on a search warrant was not objectively unreasonable despite the fact the search warrant affidavit did not contain sufficient information to establish probable cause); Illinois v. Krull, 480 U.S. 340 (1987) (finding the exclusionary rule does not apply where officers act in objectively reasonable reliance upon a statute authorizing a particular warrantless search but the statute is later found to violate the Fourth Amendment). Because the officers in this case were acting in good faith, the purposes of the exclusionary rule would not be served by suppressing the evidence obtained during the search of Appellant's property. See Leon, 468 U.S. at 918 ("[S]uppression of evidence obtained pursuant to a warrant should be ordered only on a case-by-case basis and only in those unusual cases in which exclusion will further the purposes of the exclusionary rule.").

procedures."); State v. Morris, 92 A.3d 920, 930-31 (RI 2014) (finding the Fourth Amendment and statutory exclusionary rules did not require exclusion of evidence obtained by city police detectives who arrested the defendant while outside of their jurisdiction because, "the detectives' conduct here was not egregious enough to justify exclusion of probative evidence, and we decline to expand our exclusionary rule jurisprudence to require the suppression of evidence in the circumstances of the case at bar."); Delker v. State, 50 So.3d 300 (Miss. 2010) (finding police officer's stop of a vehicle outside of his territorial jurisdiction did not result from deliberate, reckless, or grossly negligent conduct of the sort warranting application of the exclusionary rule); People v. Clark, 450 N.W.2d 75 (Mich. Ct. App. 1989) (finding there was no recognized basis for the exclusionary rule where an undercover police officer violated a statute dealing with when a law enforcement officer could act outside of his jurisdiction); Troncoso v. Commonwealth, 407 S.E.2d 349 (Va. Ct. App. 1991) (finding evidence may not be suppressed unless it was obtained as a result of a constitutional violation or by violation of a statute that expressly provides for suppression); People v. Martinez, 898 P.2d 28 (Colo. 1995) (holding that where officers unknowingly acted outside of their jurisdiction, the exclusionary rule did not apply because the officers' conduct did not violate the defendant's constitutional rights); State v. Weideman, 764 N.E.2d 997, 1002 (Ohio 2002) ("Where a law enforcement officer, acting outside the officer's statutory territorial jurisdiction, stops and detains a motorist for an offense committed and observed outside the officer's jurisdiction, the seizure of the motorist is not unreasonable per se under the Fourth Amendment. Therefore, the officer's statutory violation does not require the suppression of all evidence flowing from the stop."). Suppression was therefore not warranted under the facts of this case. Appellant's conviction and sentence should be affirmed.

II.

The trial judge did not abuse his discretion in sentencing Appellant to imprisonment for a term of twenty years where the sentence fell within the permissible statutory limits and Appellant failed to provide evidence that partiality, prejudice, oppression, or corrupt motive factored into the sentence.

Relevant Facts

During Appellant's sentencing hearing, the trial judge stated:

> I understand that the police officers had worked almost around the clock in trying to nail this down as a result of [Appellant's] decision to try to conceal his vehicle and his guilt, and I think that the facts of the situation are revealing as to the nature of the type of person [Appellant] is. He went to great lengths to try to avoid being apprehended for the crime and cover up his action. We have law enforcement officers locally and Agent Robinson pleading with him to come clean, and he just never did. There is some question in my mind as to why - - first of all, as to why he didn't stop, and we know he was drinking which was probably why he didn't stop. We have discussed cases where a person sought to cover up detection, and in many instances were successful. That did not occur in this case due to good police work and the decision of the person who turned him in, so he did not get away and is here standing before the Bar of Justice. The actions [Appellant] took were shown by the testimony of the police officers. Since you could not bring yourself to the reality of acknowledging what you did, [Appellant], is something to be considered. Of course, you were under no obligation to say anything to anyone then, nor are you at this time. You have said nothing today. You had nothing to say to the officers when you were arrested. All of that is telling to me as to making an assessment in this case. The law says you must serve not less than one nor more than twenty-five years. That wide range is there because of the discretion given me, and I have tried to figure out what kind of person is standing before the Court today. Whether you are someone who just panicked or for whatever reason, it really does not matter at this point. You have not offered anything different, but as far as the sentence that you should receive I will sentence you to less than the maximum number of years. As you stand here you are facing twenty-five years. This is a sad situation for the family of Mr. Morris as well as for your family. This was a well-known incident. Mr. Morris was well liked and respected. Maybe if you had not been drinking and did not leave the scene after the accident things would have been different.

Tr. Vol. 2 pp. 326-328. The trial judge added, "We know you had been drinking earlier on that day." Tr. Vol. 2 p. 328. The trial judge finally noted, "A judge must tender justice with mercy, and there is, as I said, a wide range of sentence under the statute for that reason. The sentence,

[Appellant] is that you be committed to the State Department of Corrections for a period of twenty years. . . ." Tr. Vol. 2 p. 328.

Discussion

Appellant asserts the trial judge erred in considering his alcohol use during his sentencing hearing. Specifically, Appellant contends the trial judge improperly considered the fact that he was drinking earlier in the day because there was no evidence in the record that Appellant consumed any alcohol after sunset. On the contrary, the trial judge was well within his discretion to consider all relevant factors in the case, including the tragic nature of the crime, the fact that Appellant fled the scene after striking Mr. Morris's motorcycle, the fact that Appellant likely fled the scene because he had been drinking earlier in the day, the fact that Appellant went to great lengths to avoid detection by law enforcement. The trial judge also noted that, while Appellant was certainly under no obligation to disclose any information during the investigation, at trial, or at sentencing, the fact that he continued to try to avoid detection and refused to accept responsibility was telling in making an assessment of the case.

Standard of Review

The trial judge has broad discretion in imposing a sentence within the statutory limits. State v. Sidell, 262 S.C. 397, 398, 205 S.E.2d 2, 3 (1974). "A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008). Generally, appellate courts will only interfere with the discretion of a judge in the imposition of a sentence in rare and unusual circumstances. State v. Ferguson, 221 S.C. 300, 307, 70 S.E.2d 355, 358 (1952). "Absent partiality, prejudice,

oppression, or corrupt motive, [the appellate court] lacks jurisdiction to disturb a sentence that is within the limits prescribed by statute." State v. Barton, 325 S.C. 522, 531, 481 S.E.2d 439, 444 (Ct. App. 1997).

Analysis

As an initial matter, Appellant's argument is not preserved for appellate review. In his Motion for New Trial and Reconsideration of Sentence, Appellant only argued that the sentence was unduly harsh in light of his age and that his action of leaving the scene did not compromise the victim's condition. R. p. * (Motion for New Trial and Reconsideration of Sentence). Similarly, at the hearing on Appellant's motion that was held on May 21, 2015, Defense Counsel cited Appellant's age and prior record as factors the court should take into account in considering a new sentence. May 21, 2015 Hearing Tr. pp. 24, 41-42. Appellant never raised the argument that the trial judge erroneously considered the fact that Appellant was drinking earlier in the day as part of his sentencing consideration. The appellate court will not consider any issues or arguments that were not presented to or passed upon by the trial court, and an appellant is limited on appeal solely to the grounds raised during trial. State v. Fleming, 254 S.C. 415, 421, 175 S.E.2d 624, 627 (1970). Appellant's argument is thus not preserved for review by this Court.

The trial judge in Appellant's case meticulously articulated the factors relevant to his sentence in the case and correctly acknowledged the wide discretion afforded to judges in such matters. The trial judge noted that Appellant went to great lengths to conceal his vehicle and his guilt, that he was only apprehended because of diligent police work and the fact that one of Appellant's confidantes had a crisis of conscience, and the serious nature of the offense. In speculating why Appellant fled the scene instead of immediately assuming responsibility and aiding Mr. Morris, the trial judge noted it was likely he did not stop because he had been

drinking earlier in the day. While Appellant is correct to note that we can only speculate as to whether he continued drinking after sundown, the fact remains that he was drinking earlier in the day and that was the most likely motive for why he fled the scene. Regardless, the trial judge did not sentence Appellant to twenty years because he had some sort of partiality, prejudice, or corrupt motive due to the fact Appellant was drinking earlier in the day. Instead, the trial judge sentenced Appellant to a significant sentence because Appellant struck Mr. Morris's motorcycle and, instead of assuming responsibility for his actions, fled the scene. Appellant then went to great lengths to conceal his involvement by mutilating his truck, burying the doors where no one would find them, hiding the vehicle under a tarp in his back yard, and obtaining a new vehicle. The trial judge carefully considered the circumstances of the case in exercising his discretion and sentencing Appellant within the applicable sentencing range. Appellant's sentence should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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Attorney General

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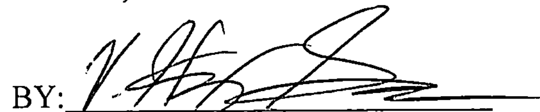
Assistant Attorney General

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

BY: 

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July 18, 2018

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ATTORNEY GENERAL

July 18, 2018

RECEIVED
JUL 18 2018
SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: The State v. William Craig Caughman
Appellate Case No: 2015-001867

Dear Ms. Kitchings:

Enclosed please find the original and one copy of the Initial Brief of Respondent and Designation of Matter along with proof of service in the above-referenced case.

Sincerely,

V. Henry Gunter
Assistant Attorney General
S.C. Bar No: 102259

VHR/db
Enclosures

cc: Taylor D. Gilliam, Esquire
Victim Advocacy Division