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No. 18-9517

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IN THE SUPREME COURT OF THE UNITED STATES

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KENNETH ROSHELL ISOM,  
*Petitioner,*

*v.*

STATE OF ARKANSAS,  
*Respondent.*

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**On Petition for Writ of Certiorari to the  
Supreme Court of Arkansas**

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**SUPPLEMENTAL APPENDIX**

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PROPERTY OF ARKANSAS SUPREME COURT/COURT OF APPEALS

SUPREME COURT CR-17-1003

KENNETH ROSHELL ISOM

APPELLANT(S)

V. DREW COUNTY CIRCUIT COURT

SAMUEL B POPE

22CR-01-52

STATE OF ARKANSAS

APPELLEE(S)

11 VOLUME RECORD LODGED

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RECORD FILED DECEMBER 6, 2017

STACEY PECTOL, CLERK

BY RENEE R. HERNDON, EXECUTIVE ASSISTANT TO THE CLERK

IN THE CIRCUIT COURT OF DREW COUNTY, ARKANSAS  
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF/RESPONDENT

VS.

NO. CR-2001-052-1

KENNETH R. ISOM

DEFENDANT/PETITIONER

\* \* \* \* \*

PROCEEDINGS BEFORE THE HONORABLE SAM POPE,  
CIRCUIT JUDGE, STATE OF ARKANSAS,  
TENTH JUDICIAL DISTRICT, FIRST DIVISION,  
ON DECEMBER 8, 2015  
IN MONTICELLO, ARKANSAS

Volume I

Pages 420 - 519

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December 8, 2015

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1           So we talked about, there were three pair of scissors  
2 found at Mr. Isom's house. Correct?

3       A     There were three pair of scissors found as a result of  
4 search warrants.

5       Q     Okay.

6           Earlier we looked at -- let me find my exhibit number --  
7 Exhibit Eight, which is an execution of the search warrant at  
8 Mr. Isom's house. If you want to look at it, it's --

9       A     What page?

10      Q     At Exhibit Eight.

11      A     (Examining same) All right.

12      Q     Okay. There were three scissors located --

13      A     That's correct.

14      Q     -- in this search. Okay.

15           And then Exhibit Five, these are the church yard scissors.  
16 Right?

17      A     Ma'am?

18      Q     Exhibit Five, we looked at before. There was another pair  
19 of scissors found in a church yard or something?

20      A     (Examining same) Yes.

21      Q     Okay.

22           So that's four scissors?

23      A     That's four.

24      Q     Right.

25           And in addition to those four, you testified that you went

1 on a search with an inmate from the Drew County Detention  
2 Center at a house and there were a number of scissors located,  
3 one or more. Correct?

4 A That's correct.

5 Q Okay.

6 But on page, Exhibit Seven has four scissors listed in  
7 this submission sheet.

8 A I didn't -- Did you ask a question? I'm sorry.

9 Q I did.

10 Exhibit Seven has four scissors listed on this submission  
11 sheet. Correct?

12 A (Examining same) That's correct.

13 Q Okay.

14 So if those scissors were submitted, the ones from this  
15 other search, not Mr. Isom's house and not the church yard  
16 location, would they have been on a different submission sheet?

17 A They would not.

18 Q Okay.

19 What if that search happened after -- So where are they on  
20 this -- Where are they if there's only four scissors submitted,  
21 but you found at least five scissors?

22 A I only recall four pair of scissors.

23 Q Okay.

24 But you testified that you --

25 MR. DEEN: Objection, Your Honor. He agreed



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Volume II

Pages 520 - 619

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1 with her testimony is what he did. He agreed to  
2 whatever this lawyer is telling him.

3 THE COURT: Well, I'm not exactly sure. Mr.  
4 McKelvey has some hearing problems sometimes. And  
5 there has been a lot of leading. And he has agreed  
6 with some of it. So I'll just leave it at that.

7 MS. VANDIVER: I mean, we'll see what the record  
8 shows, but I believe that he, I asked him for his  
9 narrative version of what happened when they went on  
10 that search.

11 And I'll move on.

12 MS. VANDIVER: (Continuing)

13 Q Let's see. When you went on this search, can you tell me  
14 who else was there?

15 MR. DEEN: Objection, form of the question. Can  
16 you specify what search you're referring to.

17 MS. VANDIVER: Thank you. I will.

18 MS. VANDIVER: (Continuing)

19 Q We talked about you going on a search with an inmate from  
20 the Drew County Detention Center. Correct?

21 A I don't recall going on a search with an inmate, but there  
22 may have been one present. Maybe it was his house and he was  
23 brought. I don't recall that.

24 Q So earlier you testified that you did recall going on a  
25 search with the Drew County --

1 A I recalled going on a search warrant at someone's house  
2 other than Mr. Isom's.

3 Q Okay. That's fine.

4 So on this other search, who was there? Do you recall?

5 A Without seeing the document -- I mean, that's been several  
6 years ago.

7 Q Okay.

8 A I wouldn't know who was there.

9 Q Okay.

10 A It's documented on the search warrant executive.

11 MS. VANDIVER: Okay. Let's see.

12 I don't have anything further.

13 THE COURT: Okay.

14 Cross?

15 CROSS EXAMINATION

16 BY MR. DEEN:

17 Q Do you have your case file in this matter here?

18 A I do.

19 Q During the break, would you be able to find what you say  
20 is an execution of a search warrant at another residence that  
21 this lawyer referred to?

22 A I will.

23 Q She's not shown you any execution of a search warrant  
24 form, has she?

25 A No.

1 Q Okay.

2 And when you agreed with her that you went on this search,  
3 whether it was pursuant to a warrant or not, with an unnamed  
4 inmate from the Drew County Jail, do you know who she's  
5 referring to? Do you have any idea?

6 A I do not.

7 Q Is she talking about a trustee who helped you with a  
8 search or is she talking about someone else? Do you know?

9 A I don't have a clue what she's talking about.

10 MR. DEEN: Pass the witness subject to recall,  
11 Your Honor.

12 THE COURT: Certainly. Okay.

13 MS. VANDIVER: Nothing further.

14 THE COURT: You may step down.

15 Do y'all want to go on and take a little bit of  
16 an early lunch break and then come back a little  
17 early?

18 MR. DEEN: That's fine.

19 THE COURT: That clock is a little slow. I show  
20 it's about fifteen till 12:00. Let's be in recess  
21 until fifteen till 1:00.

22 (Recess)

23 THE COURT: Okay. We'll come to order and be  
24 back in session.

25 Do you have something, Mr. Deen?



1                   MR. DEEN: Yes, Your Honor. I would like to --  
2                   When we broke for lunch and Mr. McKelvey was excused,  
3                   I said subject to recall. And with the Court's  
4                   permission, I would like to recall him now.

5                   THE COURT: Okay.

6                   Mr. Rick McKelvey, please.

7                   MR. DEEN: What number is this, Mike?

8                   THE COURT REPORTER: Two.

9                   THE COURT: Have a seat, Mr. McKelvey.

10                  Mr. Deen, you may proceed.

11                  MR. DEEN: Thank you.

12                  CROSS EXAMINATION (Cont.)

13 BY MR. DEEN:

14 Q     Agent McKelvey, before we broke for lunch, I had asked you  
15 to examine your file in the Isom case, the state police file,  
16 and see if you could find any documentation of the search that  
17 was referenced by Petitioner's counsel in her questioning of  
18 you.

19 A     Yes.

20 Q     The search of a place besides what's identified as Isom's  
21 house.

22 A     Yes. It wasn't a search warrant. It was a consent to  
23 search.

24 Q     All right.

25         I'm going to hand you what I've marked as State's Exhibit

1 Number Two and ask you if that's the documentation you supplied  
2 me after lunch that reflects that search?

3 A (Examining same) Yes, it is.

4 Q And it is a search of what dwelling or place?

5 A It is a search at 315 South Dillard in Monticello.

6 Q And that's a residence of Mr. Collins?

7 A It is.

8 Q And was anything recovered or taken as evidence in  
9 connection with that search?

10 A There was not.

11 Q Okay.

12 The Judge mentioned that you sometimes have some hearing  
13 problems. And I don't know if you understood Ms. Vandiver's  
14 question. But I understood you to agree with her that you went  
15 on a search of some other place, besides Isom's house, at which  
16 scissors were recovered. Is there anything in your file that  
17 would document that that is true?

18 A No. There's nothing in the file.

19 Q When you agreed with counsel that that happened, what was  
20 that, what was your answer based on, or did you understand what  
21 you were being asked?

22 A That was my mistake. I didn't --

23 Q She also asked you about the submission sheets and whether  
24 there was another submission sheet on one or more pairs of  
25 scissors besides the four that you, that you submitted.

1 A Correct.

2 Q Are there other submission sheets for these mythical other  
3 scissors that were recovered?

4 A There is not.

5 Q Allegedly?

6 A No. Not that I'm aware of, no.

7 MR. DEEN: Thank you.

8 Pass the witness.

9 MS. VANDIVER: One second, Your Honor.

10 THE COURT: Sure.

11 MR. DEEN: Your Honor, I move for the admission  
12 of State's Two, if I haven't already.

13 THE COURT: Which is?

14 MR. DEEN: It's the notes reflecting the search  
15 of the Collins' residence.

16 MS. VANDIVER: No objection.

17 THE COURT: Okay.

18 They will be admitted without objection.

19 (Whereupon, State's Exhibit Number Two, having  
20 previously been marked for identification, was  
21 received into evidence without objection.)

22 REDIRECT EXAMINATION

23 BY MS. VANDIVER:

24 Q Agent McKelvey, during the time that I was taking your  
25 testimony, you told me a number of times that you were having

1 trouble hearing me. Is that right?

2 A That's correct.

3 Q But when I asked you this question, you didn't say you

4 didn't understand my question. When I asked you the question

5 regarding the other search with the inmate, you didn't tell me

6 you couldn't hear me. Correct?

7 A I didn't hear -- You went low. I couldn't hear the end of

8 your sentence there right then.

9 Q That's a good example.

10 So when I asked you, when you were on direct the first

11 time that I asked you questions, I asked whether or not you

12 went on a search with an inmate from the Drew County Detention

13 Center. Correct? Do you remember that?

14 A You did ask.

15 Q And you didn't tell me then that you couldn't hear me.

16 A I didn't hear you. Say that again.

17 MR. DEEN: Objection. I don't know if she's

18 asking a question or telling him something. If she's

19 telling him something --

20 MS. VANDIVER: I'm asking a question. I guess

21 the record will reflect what happened on direct exam.

22 The transcript will be the best --

23 THE WITNESS: I do not recall going on any

24 search with an inmate.

25 MS. VANDIVER: (Continuing)

1 Q Okay.

2 But you did recall -- You testified earlier that you

3 recalled going on a search other than the one at Mr. Isom's

4 house --

5 A That's --

6 Q -- that resulted in scissors being found?

7 A I'm sure I did.

8 Q Okay.

9 And that was your testimony earlier and that is your

10 testimony now?

11 A And the reason -- That's not my testimony now. That's

12 misspoken earlier.

13 Q Okay.

14 After the lunch break and you had a chance to talk to the

15 prosecuting attorney?

16 A Well, we had a -- The prosecutor asked me to find the

17 document or what I kept referring to another search warrant.

18 And it wasn't another search warrant. It was a consent to

19 search.

20 Q Okay.

21 But your testimony was earlier that you recall going on a

22 search where, that was not of Mr. Isom's house, where scissors

23 were found. Correct?

24 A Yes.

25 MS. VANDIVER: Okay. Okay.

1                   That's it for me.

2                   MR. DEEN: No further questions, Your Honor.

3                   THE COURT: Okay.

4                   Very well. Step down, sir.

5                   Call your next witness.

6                   MR. BRADEN: Are you ready to proceed, Your

7                   Honor?

8                   THE COURT: Yes.

9                   MR. BRADEN: Call the keeper of the record for

10                  the Drew County prosecutor's office.

11                  MR. DEEN: Lisa Freeman.

12                  THE COURT: Okay.

13                  Lisa Freeman.

14                  Come forward, ma'am. Right around here, please

15                  (Indicating).

16                  Would you swear her in, please?

17                  Raise your right hand, please.

18                  (Whereupon, the Witness is sworn to tell the

19                  truth, the whole truth, and nothing but the truth by

20                  the Clerk of the Court.)

21                  THE COURT: Have a seat.

22                  Whereupon,

23                                   LISA FREEMAN,

24                  called as a witness by counsel for the Petitioner, having been

25                  first duly sworn, in answer to questions propounded, testified