SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3555-23T3

STATE OF NEW JERSEY,	:	CRIMINAL ACTION
Plaintiff-Respondent,	:	On Appeal from a Judgment of Conviction of the Superior Court
v.	:	of New Jersey, Law Division, Union County.
HAKEEM A. CHATMON, A/K/A	:	Indictment No. 22-02-00096
HAKEEM CHATMON	:	
Defendant-Appellant.		Sat Below: Hon. Regina Caulfield, J.S.C.

BRIEF ON BEHALF OF DEFENDANT-APPELLANT

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July 17, 2025

DEFENDANT IS CONFINED

TABLE OF CONTENTS

PAGE NOS

TABLE OF JUDGMENTS, ORDERS AND RULINGS

INDEX TO APPENDIX

PAGE NOS.

TABLE OF AUTHORITIES

PAGE NOS

Cases

TABLE OF AUTHORITIES (CONT'D)

PAGE NOS

Statutes

Rules

Constitutional Provisions

PRELIMINARY STATEMENT

Defendant Hakeem Chatmon's motion to suppress guns and other items found in Ta'Ana Dupree's apartment should have been granted. In the first place, officers did not have the proper warrant to enter Dupree's apartment. The officers had an arrest warrant for Chatmon. They decided to look for Chatmon in Dupree's apartment, where Chatmon did not live. The problem is that the law clearly requires a search warrant to enter the home of a third person to search for a suspect. That is, the officers should have gone to a judge, presented evidence showing probable cause to believe that Chatmon would be in Dupree's apartment, and obtained the judge's approval to enter the apartment to look for Chatmon. Yet the officers failed to obtain a search warrant. The entry was illegal.

Even assuming that the arrest warrant was enough to enter the apartment, another problem arises: the officers improperly failed to leave once the arrest of Chatmon was completed. Chatmon was arrested and removed without incident. At that point, the officers' authorization to stay in the apartment under the warrant ended. Yet a detective spotted a perfectly legal gun lock and decided that the officers should remain inside without a warrant.

In sum, under either theory -- that the initial entry was warrantless or that the entry became warrantless once Chatmon was removed -- the officers

were in the apartment illegally. The officers then obtained Dupree's consent to search the apartment and found the contraband. Thus, the contraband was discovered due to the officers' illegal presence in the apartment. In particular, Dupree's consent -- which came while she was detained during an ongoing illegal entry -- could not attenuate the illegality. The contraband should be suppressed.

PROCEDURAL HISTORY

Union County Indictment 22-02-00096 charged defendant-appellant Hakeem Chatmon and co-defendant Ta'Ana Dupree. The charges were three counts of second-degree unlawful possession of an assault firearm, N.J.S.A. 2C:39-5f; one count of fourth-degree possession of large capacity magazines, 2C:39-3j; and one count of fourth-degree possession of hollow point bullets, 2C:39-3f(1). (Da 1 to 3)[1]

The defendants jointly moved to suppress the guns and other contraband. On October 5 and 28, 2022, the Honorable Regina Caulfield, J.S.C., held an evidentiary hearing. (1T; 2T) On January 20, 2023, Judge Caulfield denied the motion in a written order and decision. (Da 4 to 24)

On February 20, 2024, before Judge Caulfield, Chatmon pleaded guilty to one count of second-degree unlawful possession of an assault firearm. (3T 12-1 to 31-1) Chatmon admitted that he had possessed an assault firearm in Dupree's home in Elizabeth on February 4, 2021. (3T 24-13 to 30-2, 41-9 to 21) Chatmon took sole responsibility for the firearm and exonerated Dupree.

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[1] "Da" refers to defendant's appendix.
The transcript volumes will correlate with the following dates:
1T - October 5, 2022 (suppression hearing)
2T - October 28, 2022 (suppression decision)
3T - February 20, 2024 (guilty plea)
4T - May 10, 2024 (sentencing)

(3T 27-20 to 25, 29-6 to 18) On May 10, 2024, Judge Caulfield sentenced Chatmon to five years in prison, with a forty-two-month parole bar. (4T 13-13 to 23; Da 31) The charges against Dupree were dismissed. (4T 13-24 to 14-3)

On July 16, 2024, the Office of the Public Defender filed a notice of appeal for Chatmon. (Da 34 to 37) The Appellate Division granted Chatmon's motion to file the notice as within time. (Da 38)

STATEMENT OF FACTS

A. The Testimony at the Suppression Hearing

The prosecution witnesses at the suppression hearing were State Police Detectives Mathew Schaible and Michael Savnik. In February 2021, the detectives led a team of officers that had an arrest warrant for defendant Hakeem Chatmon. (1T 7-25 to 8-12, 43-21 to 24; 2T 9-3 to 21) The detectives knew that the charges against Chatmon included possession of ghost gun parts and large capacity magazines; Schaible also knew that officers had found these items during a search of Chatmon's car in January 2021. (1T 36-3 to 16, 81-2 to 83-1, 100-12 to 102-22; 2T 9-13 to 18)

On the morning of February 4, 2021, the detectives obtained "information" that Chatmon would be located at the apartment of Ta'Ana Dupree, who was the mother of Chatmon's children. In their testimony, the detectives failed to explain the nature or source of the information. (1T 8-13 to 9-10, 37-2 to 14, 48-4 to 7, 131-25 to 132-5; 2T 9-22 to 10-5, 26-23 to 27-13) The detectives knew, however, that Chatmon had another address on his driver's license; the detectives further knew -- and later stated repeatedly at the hearing -- that Chatmon did not live in Dupree's apartment. (1T 36-17 to 37-14, 48-1 to 7, 58-2 to 3; 2T 23-9 to 14, 26-23 to 27-1) Moreover, the warrant

was only for Chatmon's arrest; the detectives had no search warrant for Dupree's apartment. (1T 46-17 to 19, 74-23 to 75-13, 103-9 to 19)

The team went to Dupree's building. (1T 9-6 to 15; 2T 9-6 to 10) The entry team, led by Savnik, arrived at Dupree's door around 8:30 a.m. (2T 9-9 to 12, 11-16 to 12-7, 43-20 to 22) The team consisted of around six to ten police officers with guns drawn. (2T 10-16 to 25, 13-3 to 12, 44-22 to 24) They knocked, announced that they were police officers with a warrant, and told the occupants to come to the door. (2T 12-19 to 13-2) An occupant opened the door; at the hearing, Savnik could not recall the person's identity. But Savnik did recall that Chatmon has been located "right there" in the living room. Chatmon was wearing only underwear. The officers entered, arrested and handcuffed Chatmon without incident, and brought him to the hallway outside the apartment. (2T 13-13 to 24, 27-14 to 23, 42-19 to 43-2)

At that point, Chatmon needed clothes, and Chatmon also told Savnik that he had to use the bathroom. Therefore, while Savnik waited in the hallway with Chatmon, the police team swept through the apartment to make sure that no occupant presented a danger. (2T 14-13 to 15-8, 15-16 to 16-12, 28-6 to 22, 31-8 to 32-10) The apartment consisted of a living room, kitchen, two bedrooms, and one or two bathrooms. (1T 14-10 to 25, 48-12 to 20; 2T 12-8 to 18) The only people inside were Dupree and her two children. (1T 15-4 to 11;

2T 14-13 to 21, 16-18 to 22) The team reported to Savnik that the apartment was "all clear" of anyone who could present a danger. (2T 15-9 to 15, 32-17 to 33-11) Savnik then brought Chatmon back inside and stayed with Chatmon in the bathroom and master bedroom as Chatmon got ready. (2T 15-9 to 15, 16-13 to 17, 17-5 to 12)

Meanwhile, Schaible had been waiting on the street while the entry team worked. (1T 12-13 to 13-5, 41-20 to 42-9; 2T 18-2 to 15) Upon being told that Chatmon was arrested, Schaible entered the apartment to find Dupree and her two children in the living room and a handcuffed Chatmon in the back bedroom. Various officers, who by that time had holstered their guns, were in both rooms. (1T 13-3 to 5, 15-1 to 16-5, 43-10 to 44-10; 2T 17-13 to 21, 18-16 to 21, 44-25 to 45-6) Schaible Mirandized Chatmon, but Chatmon did not want to talk. (1T 16-6 o 17) Chatmon was then ready to go, and Savnik brought Chatmon out to the street. (2T 18-25 to 19-9, 34-24 to 35-14, 44-3 to 14) After Savnik was on the street with Chatmon, Savnik did not know what the other officers were doing in the apartment; Savnik did not learn of any consent or search until later. (2T 19-10 to 14, 38-22 to 39-4, 46-21 to 49-4)

Schaible lingered inside the apartment because he had seen a gun lock -- which was legal -- on a dresser; the lock had a cable that was designed to thread through the barrel of a gun. (1T 33-16 to 34-7, 57-11 to 14) Considering

the gun lock and the charges against Chatmon, Schaible had a hunch that a gun might be present. (1T 47-6 to 13) At that point, according to Schaible, the entry to arrest Chatmon "turned into an investigation." (1T 69-13 to 70-4, 112-16 to 113-5) Chatmon's counsel extensively cross-examined Schaible on why the police did not leave immediately after the arrest and removal of Chatmon:

> Q All right. So then at that point you are the arresting officer; he's -- he's handcuffed; he's detained; he's Mirandized; he refused to talk; job is done; you take him in the car and leave, correct?
>
> A No, sir.
>
> Q No, we know that, because then you go into an investigation in the apartment, correct?
>
> A Yes.
>
> Q Okay. And you're there to make an arrest, not to search the apartment, correct?
>
> A I would say every situation is fluid.
>
> Q Well, yes or no, were you there to make an arrest or you were there to search the apartment?
>
> A I was there to make an arrest, but everything's fluid.
>
> Q All right. And you had no warrant for an arrest [sic – search?] signed by a Superior Court judge, did you?
>
> A Not for the residence.
>
> * * * *

> Q Okay. And then at that point you search him; there's nothing found on him; you would take him, leave in the car and process him, correct?
>
> A In certain situations.
>
> Q Okay. So why in this situation then does 10 officers -- 10 officers from the State Police are there -- and then con -- begin to conduct a warrantless search of this apartment?
>
> A There was various reasons. We -- based off his prior history, why we were there in the first place, as well as seeing the gun lock and knowing that he had no guns registered to him at the time.

(1T 46-2 to 47-13)

Schaible decided to ask Dupree for consent to search. (1T 47-14 to 25) According to Schaible, Dupree was not free to leave, but was not under arrest. (1T 23-20 to 21, 69-13 to 70-4, 95-22 to 96-12) Schaible Mirandized Dupree in the living room, questioned her, and confirmed that she was the sole lessee of the apartment. (1T 16-22 to 17-13) Schaible asked for consent by filling out and reading aloud a State Police consent-to-search form. (1T 17-14 to 20-1, 21-16 to 23-13, 51-18 to 22, 88-13 to 91-11) The operative language authorized a "complete search of the residence, including containers." (1T 22-1 to 10, 88-19 to 89-1) Schaible denied having any conversation with Dupree during the consent procedure besides his reciting of the form. (1T 64-3 to 67-6) He claimed that Dupree was unhandcuffed, was calm, and was listening. (1T

23-14 to 23, 69-4 to 12, 89-23 to 90-11) Dupree gave verbal consent and signed the form at 8:54 a.m. (1T 20-2 to 18, 23-24 to 24-15, 71-19 to 72-11) According to Schaible, he asked Dupree about "weapons," and she responded that he might find some in the bedroom. (1T 29-13 to 19)

The officers found two duffle bags under a bed. One duffle bag contained three assault rifles, and another contained high-capacity magazines and bullets. A box of bullets was also under the bed. The nightstand contained a pistol, a high-capacity magazine, and a cell phone. (1T 28-18 to 29-12, 31-13 to 32-21, 34-10 to 20)

Dupree's counsel called her to the stand. Dupree testified that she was the lessee of the apartment and that she lived there with her two children. (2T 60-8 to 14, 63-22 to 23) She confirmed that Chatmon did not live in the apartment. (2T 51-12 to 24, 60-15 to 18) Chatmon was the children's father and had visited overnight approximately two to three times in January and February 2021. (2T 51-25 to 52-11, 60-3 to 7, 63-22 to 23, 69-22 to 71-17)

Dupree denied that she had voluntarily consented to the search. Dupree testified that officers had searched the apartment before asking for consent (2T 65-22 to 66-3, 67-18 to 69-6); that Schaible had confronted her with the box of bullets before asking for consent (2T 53-6 to 24, 67-2 to 17); that Schaible had never Mirandized her (2T 57-21 to 58-19); that Schaible had told her to

sign a blank consent form (2T 56-10 to 57-2); that Schaible had not read the form to her (2T 57-11 to 19); that Schaible had not allowed her to retrieve her eyeglasses to read the form (2T 56-17 to 57-2); that Schaible had told her that she would go to jail if she did not consent (2T 53-18 to 24, 66-21 to 23, 69-4 to 8); and that Schaible had said that he could get a judge to authorize a search (2T 53-18 to 24). Dupree was cross-examined repeatedly about knowledge of the contraband in the duffle bags; she ended up testifying that the bags were Chatmon's, but that the contents inside were hers. (2T 61-5 to 63-6, 66-8 to 14, 71-18 to 75-10, 76-8 to 77-8

B. Arguments and Decision

At the close of the evidence, the defense lawyers argued that the evidence showed that the officers searched the apartment before asking Dupree for consent. (2T 89-12 to 91-11, 94-12 to 23, 97-8 to 103-17, 113-25 to 114-18) In any event, they argued, Dupree's consent was not voluntary. (2T 88-21 to 89-21, 94-7 to 11, 95-1 to 97-7, 113-6 to 24) In addition, Dupree's counsel argued that the protective sweep was unreasonable. (2T 104-5 to 112-19) Chatmon's counsel argued that the officers should have exited the apartment once they arrested and removed Chatmon; the officers had no authorization to remain and ask Dupree for consent. (2T 92-9 to 93-3)

In the written decision, the court refused to suppress the items found inside the apartment. (Da 4 to 24) The court credited the detectives' testimony and did not believe Dupree's testimony. (Da 5 to 14) The court concluded that the officers had properly reentered the apartment with Chatmon to accompany him while he dressed and used the bathroom (Da 19); that the protective sweep was reasonable (Da 17 to 19); that Schaible was lawfully present when he saw the gun lock (Da 20); and that Dupree voluntarily consented to the search (Da 20 to 23).

The court did not comment on (1) whether the entry under the arrest warrant was illegal in the first place or (2) whether the officers improperly lingered inside the apartment after removing Chatmon. (Da 5 to 24)

LEGAL ARGUMENT

POINT I

THE ITEMS FOUND IN THE APARTMENT SHOULD BE SUPPRESSED BECAUSE THE POLICE ENTERED ILLEGALLY WITHOUT A SEARCH WARRANT. U.S. CONST. AMENDS. IV, XIV; N.J. CONST. ART. 1, ¶ 7. (not raised below)

The initial entry of Dupree's apartment was illegal. Chatmon did not live in Dupree's apartment. To enter and search for a suspect in the home of a third party, the detectives needed a search warrant, not merely an arrest warrant. The items found inside the apartment should be suppressed.

The United States and New Jersey Constitutions generally require the police to have a warrant before demanding to enter a person's home. See U.S. Const. Amends. IV, XIV; N.J. Const. Art. 1, ¶ 7. A warrant subjects the actions of the police to the detached scrutiny of a judicial officer and thus safeguards the home against unjustified intrusions. Steagald. v. United States, 451 U.S. 204, 212-13 (1981).

The Payton and Steagald rules govern the type of warrant required when the police invade a home to find and arrest a suspect. The Payton rule is that an arrest warrant suffices -- provided that the police have a reasonable basis to believe that the suspect is present and resides in the home. Payton v. New York, 445 U.S. 573, 602-03 (1980); State v Miller, 342 N.J. Super. 474, 479, 497 (App. Div. 2001).

> If there is sufficient evidence of a citizen's participation in a felony to persuade a judicial officer that his arrest is justified, it is constitutionally reasonable to require him to open his doors to the officers of the law. Thus, for Fourth Amendment purposes, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within.

Payton, 445 U.S. at 602-03 (emphasis added).

The Steagald rule, however, requires the police to have a search warrant to enter the home of a third party to search for a suspect. Steagald, 451 U.S. at 213-16; Miller, 342 N.J. Super. at 489-90, 494-95. In this situation, reliance on an arrest warrant smacks of the hated writs of assistance that gave birth to the Fourth Amendment. A writ of assistance specified only the object of the search; the executing officials were then free to search any place where they believed the object might be, without the scrutiny of a judicial officer.

> An arrest warrant, to the extent that it is invoked as authority to enter the homes of third parties, suffers from the same infirmity. Like a writ of assistance, it specifies only the object of a search . . . and leaves to the unfettered discretion of the police the decision as to which particular homes should be searched. We do not believe that the Framers of the Fourth Amendment would have condoned such a result.

Steagald, 451 U.S. at 220 (footnote omitted). An intolerable situation would be created if the police, "[a]rmed solely with an arrest warrant for a single person, . . . could search all the homes of that individual's friends and acquaintances."

Id. at 215. In contrast, a judge issues a search warrant "upon a showing of probable cause to believe that the legitimate object of a search is located in a particular place, and therefore safeguards an individual's interest in the privacy of his home and possessions against the unjustified intrusion of the police." Id. at 213.

In the present case, the detectives had an arrest warrant for Chatmon; they did not have a search warrant for Dupree's apartment. (1T 46-17 to 19, 74-23 to 75-13, 103-9 to 19) Moreover, the detectives testified repeatedly that they had known that Chatmon did not live in Dupree's apartment. (1T 36-17 to 37-14, 48-1 to 7, 58-2 to 3; 2T 23-9 to 14, 26-23 to 27-1). Dupree agreed in her testimony that Chatmon did not live in her apartment. (2T 51-12 to 52-11, 60-3 to 18, 63-22 to 23, 69-22 to 71-17) Yet the entry team showed up at Dupree's door with guns drawn, announced that they were police with an arrest warrant, and told the occupants to come to the door. (2T 10-16 to 25, 12-19 to 13-12, 44-22 to 24)

This show of force and authority to gain entry to Dupree's apartment was improper based on an arrest warrant for guest Chatmon. Instead, the officers should have gone to a judge, presented evidence showing probable cause to believe that Chatmon would be in Dupree's apartment, and obtained a

search warrant to enter the apartment. The failure to do so rendered the entry into the apartment illegal.

Furthermore, this illegal entry requires suppression of the items found in the apartment. Generally, "a warrantless entry will lead to the suppression of any evidence found, or statements taken, inside the home." New York v. Harris, 495 U.S. 14, 20 (1990); see also Wong Sun v. U.S., 371 U.S. 471, 488 (1963) (holding that an unconstitutional police intrusion requires suppression of evidence "come at by exploitation of that illegality"). In particular, Dupree's consent to search did not attenuate the illegal entry. Dupree was asked to consent minutes after the officers illegally entered with guns drawn, while officers were still present in the apartment, and while Dupree was being detained. The close causal connection between the continuing illegal entry, the consent, and the discovery of contraband in the apartment is obvious. See, e.g., United States v. Robeles-Ortega, 348 F.3d 679 (7th Cir. 2003) (holding that the homeowner's consent to search did not attenuate an ongoing illegal entry); State v. Jefferson, 413 N.J. Super. 344, 362 (App. Div. 2010) (same). The items found in the apartment must be suppressed.

Although the lack of a search warrant was not raised below, appellate courts may review suppression rulings for plain error. See R. 2:10-2; State v. Alessi, 240 N.J. 501, 513, 527 (2020). The key consideration is whether the

factual record establishing the illegality appears complete. Compare State v. Witt, 223 N.J. 409, 418-19 (2015) (refusing to consider an unpreserved issue of whether a traffic stop was illegal because the factual record regarding the reason for the stop appeared incomplete) with State v. Boston, 469 N.J. Super. 223, 240-41 (App. Div. 2021) (holding that the police intrusion was plainly illegal based on the complete and incontrovertible video record that emerged at trial, even though defense counsel failed to preserve the issue by moving to reopen the suppression ruling). As explained above, the record in Chatmon's case is complete; no further facts could possibly be produced that would make the entry legal and the contraband admissible.

Accordingly, the order denying the motion to suppress should be reversed, the items found in the apartment should be suppressed, and the case should be remanded. Alternatively, if the Court finds the record incomplete on a seemingly meritorious suppression issue, the Court has the power to remand for a new suppression hearing. See Alessi, 240 N.J. at 513-14.

POINT II

ALTERNATIVELY, THE ITEMS FOUND IN THE APARTMENT SHOULD BE SUPPRESSED WHEN THE POLICE ILLEGALLY REMAINED INSIDE AFTER THEY WERE FINISHED EXECUTING THE ARREST WARRANT. U.S. CONST. AMENDS. IV, XIV; N.J. CONST. ART. 1, ¶ 7. (raised below at 2T 92-9 to 93-3; not explicitly considered in the written decision)

Alternatively, assuming that the arrest warrant authorized the entry into the apartment, that authorization ended once Chatmon was arrested and removed without incident. Yet the officers remained and asked Dupree for consent to search. Thus, the officers illegally remained in the apartment without the authorization of a warrant or any exception to the warrant requirement. The items found inside should be suppressed.

The United States and New Jersey Constitutions do not allow the police into a private home without a warrant or an exception to the warrant requirement. See U.S. Const. Amends. IV, XIV; N.J. Const. Art. 1, ¶ 7; Steagald. v. United States, 451 U.S. 204, 212-13 (1981). An "overriding respect for the sanctity of the home . . . has been embedded in our traditions since the origins of the Republic." Wilson v. Layne, 526 U.S. 603, 610 (1999). Warrantless police entries into the home "are the chief evil against which the wording of the Fourth Amendment is directed." State v. Johnson, 193 N.J. 528, 553-53 (2008).

Notwithstanding Point I, let us assume for purposes of this alternative argument that the arrest warrant for Chatmon authorized the initial entry into Dupree's apartment. In the first place, this judicial authorization to enter and arrest Chatmon did not confer on the officers the authority to search the apartment; a "search incident to arrest" generally involves a suspect's person and does not extend to the entire home where the suspect is located. Chimel v. California, 395 U.S. 752, 763 (1969).

More generally, the officers were required to exit the apartment once they were finished executing the arrest warrant. "[T]he Fourth Amendment . . . require[s] that police actions in execution of a warrant be related to the objectives of the authorized intrusion." Wilson, 526 U.S. at 611. Furthermore, the law is clear the police may not legally prolong an intrusion after completing their authorized mission. In one case, for example, officers responded to a complaint of loud noise emanating from a hotel room. State v. Chisum, 236 N.J. 530, 536 (2019). The officers arrived to find a noisy party of about ten people. Id. at 536-37. The renter of the room invited the officers in, turned down the music, and apologized. The officers decided not to issue a summons. Id. at 537.

Rather than leave because the noise issue was resolved, the officers lingered in the hotel room and continued to detain the partygoers. Each person

was asked for identification and checked for warrants. Id. at 537-38. After some of the checks came back positive, the officers commenced arrests and found two partygoers with guns. Id. at 538-39.

The New Jersey Supreme Court suppressed the guns. Id. at 548-51. The Court stated the well-established principle that the police should end an intrusion when its purpose has been effectuated. Id. at 546-47. "[O]nce the noise was abated and the mission of the noise complaint was completed," the police should have ended the intrusion into the hotel room. Id. at 550. At that point, the continued detention of the occupants for warrant checks lasted "longer than necessary to effectuate the purpose of the stop." Id. The continued intrusion after the noise complaint was resolved was unconstitutional. Id. at 550-51. See also State v. Coles, 218 N.J. 322, 345-47 (2014) (holding that the continued investigative detention of the defendant after officers completed their investigation was illegal).

No one can doubt that the same principle would apply to the execution of an arrest warrant in a home -- the place that enjoys the law's greatest protection. After officers remove the suspect from the home, they have completed the mission authorized by the arrest warrant. Any continued occupation of the home is unauthorized and warrantless.

In our case, once again, the entry team showed up at Dupree's door with guns drawn, announced that they were police with an arrest warrant, and told the occupants to come to the door. (2T 10-16 to 25, 12-19 to 13-12, 44-22 to 24) Chatmon was arrested in the apartment without incident, pursuant to the arrest warrant. (2T 13-13 to 24, 27-14 to 23, 42-19 to 43-2) Chatmon was allowed to dress and use the apartment's bathroom. (2T 15-9 to 15, 16-13 to 17, 17-5 to 12) He was then promptly removed to the street by Detective Savnick. (2T 18-25 to 19-9, 34-24 to 35-14, 44-3 to 14) The execution of the arrest warrant was finished at that point.

The other officers, however, did not leave Dupree's apartment. While Savnick waited on the street with Chatmon (2T 19-10 to 14, 38-22 to 39-4, 46-21 to 49-4), Detective Schaible lingered inside because he had seen a legal gun lock on a dresser (1T 33-16 to 34-7, 57-11 to 14). Considering the gun lock and the charges underlying the arrest warrant -- which involved Chatmon's possession of ghost gun parts and large capacity magazines during a traffic stop -- Schaible had a hunch that a gun might be present in Dupree's apartment. (1T 36-3 to 16, 47-6 to 13, 81-2 to 83-1, 100-12 to 102-22; 2T 9-13 to 18). Therefore, Schaible decided to ask Dupree for consent to search. (1T 47-14 to 25) Schaible detained Dupree and obtained her consent to search. (1T 17-14 to 20-18, 21-16 to 24-15, 51-18 to 22, 69-4 to 70-4, 71-19 to 72-11, 88-

13 to 91-11, 95-22 to 96-12) The guns, magazines, and bullets were found during the subsequent search. (1T 28-18 to 29-12, 31-13 to 32-21, 34-10 to 20)

From these facts, one can immediately see that the consent and search happened after Chatmon was removed from the apartment -- that is, after the execution of the arrest warrant was finished. This continued police presence in the apartment was unauthorized by the arrest warrant.

Nor was this continued police presence authorized by any exception to the warrant requirement. Schaible's hunch about the presence of a gun did not permit him to stay in the apartment without a warrant. Preliminarily, Schaible did not appear to have a reasonable suspicion that criminality was afoot. See Terry v. Ohio, 392 U.S. 1, 21-23, 30 (1968). The apartment was Dupree's -- not Chatmon's -- and Dupree was not implicated in any wrongdoing. Chatmon appeared to be visiting his children and Dupree. The detectives had no reason to suspect that the apartment had anything to do with Chatmon's shipment of ghost gun parts. In this context, the presence of a gun lock was innocuous and should have merely suggested that Dupree kept a legal gun in the apartment for home protection. See N.J.S.A. 2C:39-6e (exempting ordinary firearms from regulation when possessed at home).

More importantly, even assuming that Schaible had a reasonable suspicion of criminality, that predicate did not authorize him to stay in the

apartment. A police entry into a home requires a warrant supported by probable cause. Steagald, 451 U.S. at 211-12. The law does not allow the police to enter a home to investigate a suspicion of criminality. In a case where the police did just that, the Appellate Division held the entry illegal. The Court stated that there is no

> exception from the warrant requirement when the police wish to enter a home to effect a Terry-type investigative detention of a suspect. . . . [S]uch authority is inconsistent with the constitutional requirement that police have a warrant, or establish an exception to the warrant requirement, when they enter a home to make a formal arrest.

State v. Jefferson, 413 N.J. Super. 344, 354 (App. Div. 2010).

In short, the officers were not permitted to overstay the arrest warrant and remain in Dupree's apartment merely because Schaible had a hunch that a gun was present. After Chatmon was removed, the officers' presence in the apartment was illegal.

Moreover, as noted in Point I, the contraband found during the illegal entry should be suppressed; particularly, Dupree's consent during an ongoing illegal entry did not attenuate the illegality. See above at page 16.

In sum, the hearing court should have sustained the argument of Chatmon's counsel that the officers' presence in the apartment was unauthorized once they arrested and removed Chatmon. (2T 92-9 to 93-3)

Accordingly, the order denying the motion to suppress should be reversed, the items found in the apartment should be suppressed, and the case should be remanded.

CONCLUSION

For the reasons stated, the order denying the motion to suppress should be reversed, the items found in the apartment should be suppressed, and the case should be remanded.

Respectfully submitted,

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Dated: July 17, 2025

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
Docket No. A-3555-23T2
Indictment No.: 22-02-00096

STATE OF NEW JERSEY,	:	
Plaintiff-Respondent,	:	Criminal Action
v.	:	On Appeal from a Final Judgment of Conviction of the Superior Court
HAKEEM A. CHATMON A/K/A HAKEEM CHATMON	:	of New Jersey, Law Division, Union County.
	:	
Defendant-Appellant.		
	:	Sat Below: Hon. Regina Caulfield, J.S.C.
	:	

BRIEF ON BEHALF OF PLAINTIFF-RESPONDENT

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DATED: December 18, 2025

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

FEDERAL OPINIONS CITED

NEW JERSEY OPINIONS CITED

OTHER JURISDICTIONS CITED

STATUTES CITED

OTHER AUTHORITIES CITED

COUNTER-STATEMENT OF PROCEDURAL HISTORY[1]

On February 3, 2022, a Union County Grand Jury returned Indictment No. 22-02-00096, charging defendants Hakeem A. Chatmon and Taana Dupree, with three counts of second-degree unlawful possession of a weapon, contrary to N.J.S.A. 2C:39-5f (counts one, two and three); and, two counts of fourth-degree possession of a prohibited weapon and/or device, contrary to N.J.S.A. 2C:39-3j (count four and five). (Da1 to 3).

Defendants filed a Motion to Suppress evidence seized pursuant to a consent search of Ms. Dupree's apartment. On October 5, 2022 and October 28, 2022, an evidentiary hearing was held before the Honorable Regina Caulfield, P.Cr.J.S.C. (1T; 2T). On January 20, 2023, Judge Caulfield denied defendant's motion. (Da4; Da5 to 24).

On February 20, 2024, defendant pled guilty to count one of the indictment, unlawful possession of a weapon, contrary to N.J.S.A. 2C: 39-5f, second-degree unlawful possession of an assault rifle. (Da25 to 30). On May 10, 2024, defendant was sentenced in accordance with the plea agreement to a

[1] Da refers to defendant's appendix.
1T refers to the hearing transcript dated October 5, 2022.
2T refers to the hearing transcript dated October 28, 2022.
3T refers to the plea transcript dated February 20, 2024.
4T refers to the sentencing transcript dated May 10, 2024.

term of five years incarceration with a period of 42 months of parole ineligibility. (Da31 to Da33). At the time of sentencing, the court dismissed the remaining counts of the indictment and imposed the appropriate fines and fees. (Da31).

On July 17, 2025, defendant filed a Notice of Appeal. (Da34 to 35). This appeal follows.

COUNTER-STATEMENT OF FACTS

On January 6, 2021, New Jersey State Trooper Lilley, stopped defendant, Hakeem Chatmon, during a motor vehicle stop. (1T81-6 to 11). Based upon information previously received by law enforcement regarding defendant's observed activity in Pennsylvania, defendant's car was seized and a search warrant for the car was obtained in Middlesex County; defendant was released prior to the search of the car pending the application for the search warrant. (1T81-16 to 23). As a result of contraband seized during the search, defendant was charged under complaint warrant W-2021-25-1221 with, among other charges, possession of ghost gun firearm parts and transport to New Jersey with intent to manufacture a firearm without a serial number, contrary to N.J.S.A. 2C:39-9(k), and possession of a large capacity ammunition magazine, contrary to N.J.S.A. 2C:39-3(j). (1T100-25 to 102-8). A warrant for defendant's arrest on these charges was issued. (1T81-24 to 83-7).

Subsequently, Detective Matthew Schaible of the New Jersey State Police received information that defendant was staying at 495 Catherine Street, Unit 2, in Elizabeth, the apartment of his girlfriend Taana Dupree. (1T8-13 to 9-10; 1T37-2 to 10). On the morning of February 4, 2021, Detective Schaible, along with Detective Sergeant Michael Savnik of the New Jersey State Police

Fugitive Unit[2] and other members of law enforcement, arrived in the area of 495 Catherine Street to execute the arrest warrant and apprehend defendant. (1T12-13 to 24; 2T9-3 to 10-7).

At a time prior to 8:30 a.m., Detective Sergeant Savnik and approximately 9-10 other officers arrived at the location and set up a perimeter around 495 Catherine Street, a multi-family residence. (2T10-8 to 11-15). Law enforcement gained access to the building by knocking on the front door and announcing their presence. (2T11-16 to 23). Officers spoke with the first-floor occupants of Unit 1, who allowed them access to the building. Ibid. The residents of Unit 1 confirmed that defendant was upstairs in Unit 2. (2T12-1 to 7). Officers proceeded to the second floor, knocked on the door of the apartment and announced that they were police with a warrant. (2T12-11 to 13-2). Detective Sergeant Savnik recalled that the officers had their weapons drawn, in light of the nature of the charges against defendant. (2T13-7 to 14).

When the door opened, Detective Sergeant Savnik observed the living room area of the apartment and police were permitted entry. Defendant was taken into custody in the living room area. (1T14-13 to 19; 2T13-15 to 19). Defendant was placed in handcuffs and brought into the outer hallway; a

[2] On the date of this incident, Detective Sergeant Savnik was on loan to the United States Marshals Regional Fugitive Task Force. (2T7-8 to 12).

protective sweep of the apartment was conducted for officer safety. (2T13-21 to 15-3). Also, in the apartment was co-defendant Taana Dupree and her children. (2T14-16 to 21).

At the time defendant was initially apprehended in the apartment living room, he was dressed only in his underwear. Defendant advised officers that he had to use the bathroom. (2T15-11 to 16-8). Once the protective sweep was completed, Detective Savnik escorted defendant back into the apartment and to the bathroom, which was near the back bedroom. (2T38-5 to 9). Defendant was un-cuffed and permitted to use the bathroom and to then get dressed. (2T38-5 to 11).

After the protective sweep of the apartment was completed, Detective Schaible entered and observed Ms. Dupree and her children in the living room. (1T15-1 to 11). At that time, no weapons were drawn; Dupree appeared calm and the children appeared scared. (1T15-12 to 17). Detective Schaible proceeded to the back bedroom where defendant was in custody. He then advised defendant of his Miranda rights and defendant declined to speak with the officers. (1T15-21 to 16-12). Detective Schaible could not recall if he read defendant his Miranda rights from a card or if he recited them from memory, though he stated that at the time, he was conducting a high number of arrests and was very confident in his recitation. (1T83-21 to 84-9). While in

the bedroom, officers observed a "corded" gun lock on top of the dresser. (1T33-17 to 34-4).

Detective Schaible went into the living room and spoke with Ms. Dupree. She also was provided her Miranda rights, though she was not under arrest. Ms. Dupree advised the detective that she was the only lessee on the apartment lease. Detective Schaible then asked Ms. Dupree for consent to search the apartment and he presented her with a consent to search form. (1T17-14 to 18).

Detective Schaible explained that he completed the form and Ms. Dupree signed it. (1T18-6 to 17). The form reflected that the search began at 8:54 a.m. and was completed at 9:18 a.m., as well as an itemized list of things that were seized. (1T20-12 to 21-7). Detective Schaible indicated that prior to Ms. Dupree signing the form, he reviewed each line of the form and read it to her out loud, "word by word." (1T21-21 to 25). The consent to search form was reviewed prior to signing and prior to when the search of the apartment began. (1T22-1 to 23-13). Detective Schaible described Ms. Dupree's composure during this process as "calm," noting that she was not under arrest or in handcuffs. (1T23-14 to 23). Ms. Dupree consented to the search orally and then signed the form. (1T23-24 to 25).

Law enforcement then conducted a search of the apartment. Ms. Dupree advised officers that there might be some weapons in the bedroom. From that room, officer seized various items from duffle bags under the bed, including three assault rifles, extended magazines and ammunition in a black box. (1T28-18 to 23). A handgun and high-capacity magazine also were seized from the nightstand in the bedroom. (1T28-24 to 29-19). Detective Schaible denied that either he or any fellow officers pressured, threatened or coerced Ms. Dupree to consent to the search of her apartment. (1T35-8 to 12).

Taana Dupree testified at the motion to suppress hearing. Ms. Dupree stated that she had been living at 495 Catherine Street, Unit 2, for a few months prior to the search. She testified that defendant did not live with her but had stayed over a few nights since January. (2T51-12 to 52-3). Ms. Dupree stated that on the morning of February 4, 2021, she was in her apartment when Detective Schaible made contact with her. She said she initially denied consent to search her apartment. She said that he brought her into the hallway outside of the apartment with a black box he retrieved from under her bed. She testified that he asked her to open the box and that if she did not, he was going to "lock [her] up." (2T53-9 to 24). He further told her that if she did not give consent to search he was going to get it from a judge. Ibid.

Ms. Dupree stated that she was upset and that her children were taken into another room with an officer. (2T54-3 to 19). At some point, after officers conducted a sweep of the apartment, Detective Schaible brought her a consent to search form. (2T56-5 to 57-2). Ms. Dupree claimed that the form was blank and the detective instructed her to sign in two places. Ibid. She also asserted that she could not read the form because she did not have her glasses and she was not permitted to get them. She denied that the form was read to her prior to signing it. (2T57-11 to 19). She also denied that she was advised of her Miranda rights. (2T58-2 to 9).

On cross-examination, Ms. Dupree stated that defendant had stayed over her apartment and had brought with him a book bag containing his things, i.e., clothes. She also stated that at previous times, he had brought over several duffle bags. She first denied looking in the bags that were on the floor of her bedroom, but stated that she was aware that they contained pieces of guns. (2T61-1 to 62-9). Ms. Dupree then changed her testimony and acknowledged that she had looked in the bags and saw the gun pieces. Ibid. She stated that the bags belonged to defendant but she did not ask for permission to open the bags. (2T62-23 to 63-6). Ms. Dupree stated that the black gun box, which was under her bed and contained ammunition, belonged to her. (2T65-5 to 13; 2T67-9 to 17).

Ms. Dupree testified that the consent to search form was brought to her after law enforcement had searched her apartment. (2T65-22 to 66-3; 2T68-18 to 25). She claimed that she knew there were gun parts in the bags but she signed the form because the detective told her she would go to jail, and she did not want to go to jail. (2T66-8 to 67-1). She estimated that the search of the apartment took about 10 minutes. (2T68-3 to 5). During further questioning, Ms. Dupree stated that the gun parts belonged to her. (2T72-4 to 16). She stated that the duffle bags belonged to defendant but the contents were hers. (2T72-17 to 73-12). Ms. Dupree stated that she had placed the bags under her bed so they were not out in the open. (2T76-14 to 77-2).

LEGAL ARGUMENT

POINT I

THE EVIDENCE WAS LAWFULLY SEIZED PURSUANT TO A CONSENT TO SEARCH AFTER LAW ENFORCEMENT PROPERLY ENTERED THE APARTMENT AND EXECUTED THE ARREST OF DEFENDANT. (NOT RAISED BELOW).

For the first time on appeal, defendant claims that police illegally entered the home of Ms. Dupree to execute an arrest warrant on defendant, because they did not have a search warrant for 425 Catherine Street, Unit 2 when they entered. However, defendant did not raise this issue below and only challenged the legality of Ms. Dupree's consent to search in the Law Division. (Da15 to 16). As a result, defendant has waived this argument on appeal. Nonetheless, addressing the merits of defendant's claim, the record supports the finding that officers were permitted entry into the apartment and saw defendant as they entered. Accordingly, defendant's claim is without merit and should be rejected on appeal.

Generally, "the points of divergence developed in proceedings before a trial court define the metes and bounds of appellate review." State v. Robinson, 200 N.J. 1, 19 (2009). Parties must make known their positions at the suppression hearing so that the trial court can rule on the issues before it.

See Ibid. For sound jurisprudential reasons, with few exceptions, "'appellate courts will decline to consider questions or issues not properly presented to the trial court when an opportunity for such a presentation is available.'" Id. at 20 (quoting Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973)).

In State v. Witt, 233 N.J. 409, 418 (2015), the defendant raised for the first time on appeal, the legality of the stop of his vehicle, after challenging only the lawfulness of the search of his car in his motion to suppress in the trial court. The Supreme Court declined to address his claim that the stop was unlawful stating:

> We conclude that it would be unfair, and contrary to our established rules, to decide the lawfulness of the stop when the State was deprived of the opportunity to establish a record that might have resolved the issue through a few questions to [the officer]. The trial court, moreover, was never called on to rule on the lawfulness of the stop. Under the circumstances, the Appellate Division should have declined to entertain the belatedly raised issue. We therefore reverse the Appellate Division and hold that the lawfulness of the stop was not preserved for appellate review.
>
> Ibid.

In this case, defendant never claimed during the motion to suppress that police illegally entered Ms. Dupree's apartment to execute the arrest of defendant. He only challenged the lawfulness of Ms. Dupree's consent to search the apartment after the arrest warrant was executed. As a result, the

trial judge did not make any findings in this regard, or address the issue in her decision. (Da16 to 24). Here, "[b]ecause the issue never was raised before the trial court, because its factual antecedents never were subjected to the rigors of an adversary hearing, and because its legal propriety never was ruled on by the trial court, the issue was not properly preserved for appellate review." State v. Robinson, 200 N.J. at 18-19. Accordingly, defendant's claim should be rejected by this Court.

Nonetheless, addressing the issue raised by defendant, there is evidence in the record to support a finding that police knocked and announced their presence at the door of 425 Catherine Street, Unit 2, and when the door was opened, observed defendant in plain view. The evidence also supports the fact that defendant and Ms. Dupree permitted the officers to enter the apartment to arrest defendant. As a result, defendant's claim that officers illegally entered the apartment without a search warrant to arrest him is without merit.

Under the Fourth Amendment of the United States Constitution and under Article 1, paragraph 7 of the New Jersey Constitution, "[a] warrantless search is presumed invalid unless it falls within one of the recognized exceptions to the warrant requirement." State v. Cooke, 163 N.J. 657, 664 (2000), overruled on other grounds by, State v. Witt, 223 N.J. 409 (2015). A defendant has a constitutional right to be free from indiscriminate searches and

seizures by police without a warrant, unless one or more of the recognized exceptions to the warrant requirement apply. Witt, 223 N.J. at 422 (citation omitted).

"[O]ur jurisprudence expresses a clear preference for police officers to secure a warrant before entering and searching a home." State v. Brown, 216 N.J. 508, 527 (2014). Where a search of a home is challenged, the State has the burden of proving by a preponderance of the evidence the search is "justified by one of the 'well-delineated exceptions' to the warrant requirement." State v. Shaw, 213 N.J. 398, 409 (2012) (quoting State v. Frankel, 179 N.J. 586, 598 cert. denied, 543 U.S. 876 (2004)).

In Steagald v. United States, 451 U.S. 204 (1981) the Supreme Court considered "the narrow issue . . . [of] whether an arrest warrant — as opposed to a search warrant — is adequate to protect the Fourth Amendment interests of persons not named in the warrant, when their homes are searched without their consent and in the absence of exigent circumstances." Id. at 212 (emphasis added). In Steagald, Drug Enforcement Administration agents entered petitioner's home with an arrest warrant in an attempt to locate a federal fugitive. The agents did not have a search warrant. The fugitive was not found in the house, but the agents did observe cocaine while in the house. After obtaining a search warrant, the agents uncovered additional

incriminating evidence. Steagald was arrested and indicted on federal drug charges. The Supreme Court concluded the arrest warrant was not adequate to protect Steagald's Fourth Amendment rights, when he was not named in the warrant and, where his home was searched without his consent and in the absence of exigent circumstances. The Supreme Court explained the issue it decided was "not whether the subject of an arrest warrant can object to the absence of a search warrant when he is apprehended in another person's home, but rather whether the residents of that home can complain of the search." Id. at 219.

This distinction was recognized in State v. Miller, where the Appellate Division observed that whether evidence seized during a search "conducted upon execution of a . . . warrant for [a] defendant's arrest, but without a search warrant," and "in a third-party's home" should be suppressed is "a factual situation one step removed from Steagald[.]" 342 N.J. Super. 474, 477, 489 (App. Div. 2001).

"Absent exigent circumstances or consent, the police must obtain a warrant to conduct an arrest inside a home." State v. Brown, 205 N.J. 133, 145 (2011). Although "an arrest warrant generally furnishes no authority to the police to intrude on the privacy of a home or to engage in a search therein," State v. Miller, 342 N.J. Super. 474, 490 (App. Div 2001), "[a]n arrest warrant

'implicitly carries with it the limited authority to enter a dwelling' where the suspect lives when there is reason to believe the suspect is inside," Brown, 205 N.J. at 145 (quoting Payton v. New York, 445 U.S. 573, 603 (1980)). In State v. Jones, 143 N.J. 4, 13 (1995) our Supreme Court held police "have the right to execute an arrest warrant on a defendant at his or her home, and they may enter the home to search for the defendant when there is probable cause to believe that he or she is there." However, "absent special circumstances, a police officer cannot search for the subject of an arrest warrant in a home where the subject is merely a visitor without first obtaining a search warrant." State v. Cleveland, 371 N.J. Super. 286, 294 (App. Div), certif. denied, 182 N.J. 148 (2004)(Emphasis added). A warrantless search is presumed invalid unless it falls within one of the recognized exceptions to the warrant requirement, which the State has the burden of demonstrating. State v. Williams, 461 N.J. Super. 1, 10 (App. Div. 2019). When an entry is invalid, what proceeds thereafter is tainted and the trial court must suppress any evidence seized as a result of the unlawful entry. Miller, 342 N.J. Super. at 500.

A resident of a property may vitiate the warrant requirement by consenting to a search by the police, State v. Domicz, 188 N.J. 285, 305 (2006), an "essential element" of such consent to conduct a warrantless search

is the individual's "knowledge of the right to refuse [it]," State v. Johnson, 68 N.J. 349, 353-54 (1975). An "essential element" of such consent to conduct a warrantless search is the individual's "knowledge of the right to refuse [it]." Id. at 353-54 (1975). In a noncustodial setting such as the present one, the State does not necessarily have to establish that police officers expressly advised the person who allowed their entry of the right to refuse consent, but that burden remains on the State to demonstrate that person's knowledge of right to refuse. Id. at 354. "[C]onsent to a warrantless search . . . must be shown to be unequivocal, voluntary, knowing, and intelligent," State v. Sugar, 108 N.J. 151, 156 (1987), based on the totality of the circumstances, State v. Koedatich, 112 N.J. 225, 264 (1988).

Further, exigent circumstances permit police to enter a dwelling to search for the subject of an arrest warrant. In particular, the police may chase a fleeing suspect into a dwelling to execute an arrest warrant. See State v. Jones, 143 N.J. at 19. The hot pursuit of a fleeing suspect may constitute an exigent circumstance sufficient to justify a warrantless home entry if the officers are in "immediate or continuous pursuit" of the suspect. State v. Bolte, 115 N.J. 579, 597-98 (1989); see also In Interest of J.A., 233 N.J. 432, 449 (2018) (noting the United States Supreme "Court's longstanding recognition that "'hot pursuit" cases fall within the exigent-circumstances exception to the warrant

requirement'" (quoting Steagald v. United States, 451 U.S. at 218). "Because the 'hot pursuit' doctrine is a subset of the exigent-circumstances exception to the warrant requirement, the touchstones that would justify a warrantless entry remain the possible destruction of evidence and the threat of violence by the suspect." J.A., 233 N.J. at 449, 186 A.3d 266 (citations omitted).

Likewise, the police may enter a dwelling where they observe a suspect, in plain view, through an open door. State v. Cleveland, 371 N.J. Super. at 300-01; see also, People v. Olson, 144 Ill. Dec. 806. 811 (1990)(police undertook a search of a hotel room for defendant as another occupant answered the door by opening it and told the police that defendant was in bed; police walked a short distance directly to the bed to effect arrest and thus there was no search).

Here, the testimony established that when police knocked on the outside door of 425 Catherine Street, the resident of Unit 1 opened the door and allowed police to enter the common hallway. (2T12-1 to 7). The resident of Unit 1 confirmed that defendant was upstairs in Unit 2. Thus, the police were permitted into the common area and were lawfully present in the hallway. State v. Miller, 159 N.J. Super. 552, 558-59 (App. Div. 1978) (holding tenants "assume[] the risk that one of their number might permit the common area to be searched") (quoting United States v. Matlock, 415 U.S. 164, 169-72

(1974)); State v. Brown, 282 N.J. Super. 538, 547 (App. Div.), certif. denied, 143 N.J. 322 (1995)("a tenant does not have a reasonable expectation of privacy in the common areas of a building"). Further, police had an objectively reasonable belief that defendant was in the second-floor apartment. See Miller, 342 N.J. Super. at 498.

Once inside the building, Detective Savnik testified that officers knocked on the door of Unit 2 and announced that they were police with a warrant. (2T12-19 to 24). Detective Savnik stated that in response to their knocking, either defendant or Ms. Dupree opened the door, which opened to the living room.[3] (2T13-13 to 19; 2T12-11 to 14). Officers were then allowed entry into the apartment and defendant was taken into custody "at that point in the living room area right there." (2T13-15 to 19). Importantly, there was no testimony that officers had to look for defendant or that they had to go into the interior of the apartment to search for him. Detective Savnik then brought defendant out of the apartment into the hallway. (2T13-21 to 24).

Based upon this testimony, either defendant or Ms. Dupree, with knowledge that police were at the door to execute a warrant, opened the door and allowed police to enter, thus giving police permission to enter. When the

[3] Detective Savnik testified he was not the first officer through the door when it opened.

door was opened, defendant was taken into custody in the living room, supporting the fact that he was in plain view when the door opened. Notably, police were acting upon their observations and entered the apartment to take defendant into custody pursuant to the lawfully issued arrest warrant. They did not enter the apartment for the purpose of searching it. Indeed, a search was not required because defendant's presence was apparent. Cf. United States v. Junkman, 160 F.3d 1191, 1193-94 (8th Cir.1998), cert. denied, 526 U.S. 1094, 119 S. Ct. 1511, 143 L. Ed. 2d 663 (1999) (regarding Steagald as distinguishable because police entered third-party's motel room to arrest non-resident, and did not use the arrest warrant as a basis for conducting a search of the premises); People v. Olson, 198 Ill. App. 3d 675, 144 Ill. Dec. 806, 556 N.E.2d 273, 277-78 (1990); State v. McKinney, 49 Wash. App. 850, 746 P.2d 835, 838 (1988). But see, e.g., State v. Howard, 75 Ohio App. 3d 760, 600 N.E.2d 809 (1991)(holding that police needed a search warrant to enter a third-party's residence to execute an arrest warrant for a nonresident even though no search was necessary because police observed subject through a window).

Based upon the credible testimony of Detective Savnik, it is apparent that officers properly knocked and announced their presence and purpose and were granted entry into the apartment, either by defendant or Ms. Dupree. At that time, officers took defendant into custody in the first point of entry, the

living room, and removed him from the location. Defendant was in plain view of the officers who immediately placed him under arrest – no search of the apartment was conducted to execute the arrest warrant. Accordingly, defendant's claim that officers illegally entered the apartment without a search warrant is without merit and should be rejected by this Court.

Further, because police re-entered the apartment to allow defendant to use the bathroom and put on warm clothes, their conduct was sufficiently attenuated to cure any purported warrantless search. As a result, the officer's observation of the gun lock in the bedroom was lawful and not tainted by the original entry.

The exclusionary rule applies to preclude the admission of evidence only when such evidence is suitably linked to the police misconduct. State v. Badessa, 185 N.J. 303, 311 (2005). Therefore, when evidence is acquired by constitutionally valid means after initial unconstitutional action by law enforcement, courts must consider whether the exclusionary rule is applicable. In Interest of J.A., 233 N.J. at 447.

The appropriate inquiry for courts assessing the admissibility of the evidence is whether the evidence was "the product of the 'exploitation' of [the unconstitutional police action] or of a 'means sufficiently distinguishable' from the constitutional violation such that the 'taint' of the violation was

'purged.'" State v. Shaw, 213 N.J. at 414 (quoting Hudson v. Michigan, 547 U.S. 586, 592 (2006)). Such evidence is admissible "when the connection between the unconstitutional police action and the secured evidence becomes 'so attenuated as to dissipate the taint' from the unlawful conduct." Ibid. (quoting Badessa, 185 N.J. at 311).

In Brown v. Illinois, 422 U.S. 590, 593-94 (1975), the United States Supreme Court identified three factors that courts should consider in evaluating attenuation between the valid and violative police actions. Our Court summarized those factors in Shaw: "(1) 'the temporal proximity' between the illegal conduct and the challenged evidence; (2) 'the presence of intervening circumstances'; and (3) 'particularly, the purpose and flagrancy of the official misconduct.'" State v. Shaw, 213 N.J. at 415 (quoting Brown, 422 U.S. at 603-04). The determination of whether evidence is the fruit of unlawful police conduct is a factual matter for courts to decide on a case-by-case basis. State v. Johnson, 118 N.J. 639, 653 (1990) (citing Brown, 422 U.S. at 604 n.10; Dunaway v. New York, 442 U.S. 200, 218 (1979); State v. Worlock, 117 N.J. 596, 625 (1990)).

Evidence seized without a warrant and in the absence of an exception to the warrant requirement is subject to suppression unless the exclusionary rule is inapplicable. That rule does not apply when the conduct through which the

evidence is obtained was too attenuated from the unlawful police conduct to be subject to its "taint." In Interest of J.A., 233 N.J. at 447

In this case, law enforcement observed defendant in the apartment after being permitted entry. Once defendant was taken into custody, he was removed from the apartment and placed in the common hallway. Thus, any allegedly illegal conduct by the officers was limited to a brief entry, and not a search, to detain defendant. Because of the manner in which defendant was dressed and his request to use the bathroom, law enforcement reasonably re-entered the apartment to allow him to use the bathroom and get dressed before going outside in the cold, February morning. Therefore, there were intervening circumstances between the initial entry and when defendant was escorted back into the apartment to use the bathroom.

Further, any alleged misconduct by law enforcement was far from flagrant and would be limited to a brief entry to secure defendant. In fact, there is no support for a claim that officers searched the apartment without a warrant prior to being given valid consent.[4] As a result of these facts, the re-

[4] Ms. Dupree testified that police searched the apartment before asking for consent. However, the trial judge found this claim to be not credible. In evaluating Ms. Dupree's testimony, the court found her to be non-responsive to a number of questions and that she appeared to be stalling for time to think about her answers. Significantly, the court observed that Ms. Dupree changed her testimony throughout the hearing and that her claim that officers searched the apartment

entry into the apartment was sufficiently attenuated from any purported original illegal intrusion to require its suppression.

As set forth above, the testimony clearly supported that officers were lawfully inside of the apartment when they observed the gun lock. Based upon the totality of circumstances, law enforcement had probable cause to seek consent to search the apartment. Defendant's claim that the evidence must be suppressed is without merit and should be rejected by this Court.

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before asking for consent was not credible. (Da13-14).

POINT II

LAW ENFORCEMENT PROPERLY CONDUCTED A PROTECTIVE SWEEP OF THE APARTMENT AFTER PLACING DEFENDANT UNDER ARREST. (Da17 to 19).

Defendant claims that officers improperly remained in Ms. Dupree's apartment and asked for consent to search after defendant was arrested. Defendant's argument, however, fails to account for the totality of circumstances, including the nature of the charges and the fact that defendant had to be escorted back into the apartment to use the bathroom and get dressed. Based upon these important factors, the trial court correctly found that the protective sweep of the apartment was reasonable. It necessarily follows that Officer Schaible's observation of a gun lock in the bedroom where defendant was getting dressed, which gave rise to probable cause to seek consent to search, was lawful under the plain view exception. Accordingly, defendant's claim is without merit and must be denied.

"Our constitutional jurisprudence expresses a preference that government officials first secure a warrant before conducting a search of a home or a person." State v. Watts, 223 N.J. 503, 513 (2015) (citing State v. Edmonds, 211 N.J. 117, 129 (2012)). The police may conduct a warrantless search only if it falls within "one of the . . . well-delineated exceptions to the

warrant requirement." Edmonds, 211 N.J. at 130 (quoting State v. Frankel, 179 N.J. at 598). "The State bears the burden of proving by a preponderance of the evidence the validity of a warrantless search." Id. at 128 (citing State v. Wilson, 178 N.J. 7, 12-13 (2003)).

A protective sweep of a home incident to a lawful arrest is a reasonable search under both the Fourth Amendment and Article I, Paragraph 7 of our State Constitution. Maryland v. Buie, 494 U.S. 325, 327-328 (1990); State v. Davila, 203 N.J. 97, 113 (2010); State v. Cope, 224 N.J. 530, 571 (2016). "A 'protective sweep' is a quick and limited search of premises, incident to an arrest and conducted to protect the safety of police officers or others. It is narrowly confined to a cursory visual inspection of those places in which a person might be hiding." Davila, 203 N.J. at 113, (quoting Buie, 494 U.S. at 327).

The rationale for the protective sweep is officer safety. See Id. at 103. It is recognized that police officers who make an arrest in a home face a great "risk of danger" because they are "at the disadvantage of being on [their] adversary's 'turf.'" Buie, 494 U.S. at 333; State v. Cope, 224 N.J. at 571. Officers making an in-home arrest have an interest in ensuring that the suspect "is not harboring other persons who are dangerous and who could unexpectedly launch an attack." Ibid. Additionally, an arrest in a home may

trigger a potentially chaotic, volatile, and dangerous scene involving the suspect's immediate relatives or friends. See Greiner v. City of Champlin, 27 F.3d 1346, 1354 (8th Cir.1994) (finding qualified immunity for protective sweep incident to in-home arrest because situation was chaotic and occupants were aggressive towards officers). Officers have a right to take commonsense safety precautions that will lessen the potential dangers to which they are exposed while executing an arrest in a home. See Davila, 203 N.J. at 115-16.

The permissible scope of a protective sweep incident to a home arrest depends on the radius of danger facing the officers. The officers may "look in closets and other spaces immediately adjoining the place of arrest from which an attack could be immediately launched" without probable cause or reasonable suspicion. Buie, 494 U.S. at 334. Any wider search, however, must be based on "articulable facts" and "rational inferences" drawn from those facts that "would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the arrest scene." Ibid.

Here, officers had a lawful arrest warrant for defendant. Due to the nature of the charges, i.e., illegal weapons, the trial court found that it was reasonable that the officers would conduct a cursory check of the apartment to make sure that no armed individuals were present. (Da19). In fact, the trial

court noted that it was particularly reasonable for the officers to do so in this case where the address was not Chatmon's home but a location where officers learned he could be found. Further, the trial court correctly dismissed defendant's claim that only Ms. Dupree and her children were in the apartment, finding that the assertion does not negate the fact that someone else, armed and posing a danger to police, could not have been hiding within the apartment. (Da19).

Additionally, the trial court correctly observed that after defendant had been taken into custody and removed from the apartment, he asked to use the bathroom and to get dressed in the bedroom. The trial judge, therefore, found it was reasonable for officers to conduct a sweep of the apartment including the bathroom and master bedroom as officers were going to reenter the apartment and escort defendant to that area. See State v. Cope, 224 N.J. at 549 (protective sweep of the defendant's porch was lawful, even without probable cause or reasonable suspicion, where it was in close proximity to the place of arrest).

The trial court further found that while defendant was in his bedroom, lawfully accompanied by officers, Detective Schaible observed, in plain view, the gun lock on the dresser. See State v. Johnson, 171 N.J. 192, 207 (2002) (when a police officer is lawfully in a viewing area, he does not have to avert his eyes from suspicious evidence in plain view); State v. Bruzzese, 94 N.J.

210, 237 (1983), cert. denied, 465 U.S. 1030 (1984) overruled in part by State v. Gonzales, 227 N.J. 77 (2016). Based upon the observations of Detective Schaible, coupled with the knowledge that the warrant for defendant's arrest was for possession of illegal gun parts, the trial court correctly found that Detective Schaible had a reasonable basis to ask for consent to search the apartment. (Da20).

The trial court's findings are amply supported by the record. Specifically, Detective Savnik recalled that after defendant had been taken into custody, he was removed to the hallway outside of the apartment. While there, defendant was dressed only in his underwear and was agitated because he had to use the bathroom. (2T13-21 to 24; 2T15-11 to 15; 2T49-19 to 23; 2T31-12 to 19). Detective Savnik remained in the stairwell with defendant while other officers conducted a protective sweep of the apartment and, when it was cleared, he brought defendant back inside to use the bathroom and to get dressed. (2T16-9 to 17; 2T31-12 to 19). Detective Savnik recounted:

> Mr. Chatmon was placed in handcuffs. He was then under arrest. He was not free to leave. He had to be changed -- dressed to go outside in the cold weather. And, then he started saying he had to use the bathroom continuously until we had enough personnel to go in, which we had right there. We did the protective sweep, so we deemed it safe. And, at that point, we went back in so he could utilize the restroom.

[2T31-12 to 19]

Detective Savnik was asked if the purpose of the protective sweep was because defendant was asking to use the bathroom. Detective Savnik responded:

> I'm saying that contributed to the fact that we had to go in. But, the main thing was that he had to get changed, we went in.
>
> [2T31-23 to 25.]

Detective Savnik testified that after the protective sweep was completed, it was safe for officers to re-enter the apartment to allow defendant to use the bathroom and get dressed. (2T32-6 to 33-8). Detective Schaible testified that after the officers entered to allow defendant to put clothes on, they observed a gun lock on the dresser in the bedroom. (1T33-22 to 34-7). Specifically, Detective Schaible stated that he went into the bedroom to retrieve defendant, but did not leave once he observed the gun lock. At that point, given the nature of the charges against defendant, i.e., illegal weapons, and the presence of a gun lock in plain view, he believed he had probable cause to search and made contact with Ms. Dupree to seek her consent to search the apartment. (1T47-10 to 22; 1T51-3 to 22; 1T75-19 to 82-4).

Based upon the credible testimony of Detectives Savnik and Schaible, the trial court correctly found that law enforcement properly conducted a

protective sweep of the apartment and observed the gun lock in plain view. Given the totality of the circumstances, it was then reasonable for law enforcement to seek Ms. Dupree's consent to search the apartment. Accordingly, defendant's claim that police unlawfully remained in the apartment is without merit and should be rejected by this Court. Defendant's conviction should be affirmed.

CONCLUSION

For all of the foregoing reasons and on the basis of the authority cited herein, it respectfully is submitted that defendant's conviction should be affirmed by this Court.

Respectfully submitted,

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s/ Michele C. Buckley

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3555-23T3
Ind. No. 22-02-00096

REPLY BRIEF FOR DEFENDANT-APPELLANT

STATE OF NEW JERSEY,	:	CRIMINAL ACTION
Plaintiff-Respondent,	:	On Appeal from an Order of the Superior Court of New Jersey, Law Division, Union County
v.	:	
HAKEEM A. CHATMON,	:	Sat Below: Hon. Regina Caulfield, J.S.C.
Defendant-Appellant.	:	

DEFENDANT IS CONFINED

Your Honors: Pursuant to R. 2:6-2(b), this letter is filed in lieu of a formal reply brief on behalf of the defendant-appellant.

TABLE OF CONTENTS

PAGE NOS

PROCEDURAL HISTORY AND STATEMENT OF FACTS

This brief is filed on behalf of defendant-appellant Hakeem Chatmon and in reply to plaintiff-respondent's brief. Defendant relies on the procedural history and statement of facts in his main brief filed on July 17, 2025.

LEGAL ARGUMENT

POINT I

THE ITEMS FOUND IN THE APARTMENT SHOULD BE SUPPRESSED BECAUSE THE POLICE ENTERED ILLEGALLY WITHOUT A SEARCH WARRANT. U.S. CONST. AMENDS. IV, XIV; N.J. CONST. ART. 1, ¶ 7. (not raised below)

As detailed in Point I of Chatmon's main brief, the detectives illegally entered Ta'Ana Dupree's apartment on the authority of an arrest warrant, when the law required a search warrant. Respondent does not seem to contest that the detectives had the wrong warrant. Instead, the linchpin of respondent's argument seems to be that an occupant of the apartment supposedly consented the police entry. That is, after the detectives knocked and announced that they were police with a warrant, an occupant "opened the door and allowed police to enter, thus giving police permission to enter." (Respondent's brief at 12, 18, 19)

A similar argument was resoundingly rejected by the United States Supreme Court. See Bumper v. North Carolina, 391 U.S. 543, 548-50 (1968). After an announcement by the police that they have a warrant, any "consent" to enter from an occupant cannot be voluntary:

> The issue thus presented is whether a search can be justified as lawful on the basis of consent when that 'consent' has been given only after the official conducting the search has asserted that he possesses a

> warrant. We hold that there can be no consent under such circumstances.
>
> When a prosecutor seeks to rely upon consent to justify the lawfulness of a search, he has the burden of proving that the consent was, in fact, freely and voluntarily given. This burden cannot be discharged by showing no more than acquiescence to a claim of lawful authority. A search conducted in reliance upon a warrant cannot later be justified on the basis of consent if it turns out that the warrant was invalid. . . .
>
> When a law enforcement officer claims authority to search a home under a warrant, he announces in effect that the occupant has no right to resist the search. The situation is instinct with coercion -- albeit colorably lawful coercion. Where there is coercion there cannot be consent.

Id. (footnotes omitted)

In Chatmon's case, the testimony was that an occupant of the apartment opened the door after the entry team announced through the door that they were police with a warrant. (2T 12-19 to 13-19) In other words, the officers effectively announced that the law required the occupants to open the door and allow entry; the occupants had no option of barring the door and remaining undisturbed. Given the circumstances, respondent's consent argument has no possible merit.

In short, respondent cannot avoid the plain error in failing to suppress because the record uncontestably establishes that: (1) Chatmon did not live in

the apartment, triggering the requirement of a search warrant. (2) The detectives improperly entered the apartment under the authority of the arrest warrant, not by consent.

As to the remainder of respondent's argument regarding our Point I, we reassert and rely upon our main brief.

POINT II

ALTERNATIVELY, THE ITEMS FOUND IN THE APARTMENT SHOULD BE SUPPRESSED WHEN THE POLICE ILLEGALLY REMAINED INSIDE AFTER THEY WERE FINISHED EXECUTING THE ARREST WARRANT. U.S. CONST. AMENDS. IV, XIV; N.J. CONST. ART. 1, ¶ 7. (raised below at 2T 92-9 to 93-3; not explicitly considered in the written decision)

Point II of our main brief proceeds upon the assumptions that (1) the arrest warrant authorized the entry and arrest of Chatmon; (2) the police could legally conduct the protective sweep when Chatmon needed to dress and use the bathroom; and (3) the police could legally remain inside while Chatmon performed his morning ablutions. Our point of contention is that (4) the arrest warrant provided no further authorization for the police to remain inside the apartment after Chatmon was finally removed; yet the police illegally remained inside and asked for consent to search.

Respondent's brief has much to say about issues 1, 2, and 3 -- which we are not contesting for purposes of this argument. Respondent seems to say little or nothing about issue 4, which is our actual point of contention. Other than this observation, we reassert and rely upon Point II of our main brief.

CONCLUSION

For the reasons stated here and in our main brief, the order denying the motion to suppress should be reversed, the items found in the apartment should be suppressed, and the case should be remanded.

Respectfully submitted,

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Public Defender
Attorney for Defendant-Appellant

By: /s/ Peter T. Blum
PETER T. BLUM
Assistant Deputy Public Defender

Dated: December 23, 2025