

SUPREME COURT OF NEW JERSEY  
A-118 September Term 2011  
069823

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

O R D E R

RA-KING J. ALLEN, SR.,

Defendant-Appellant.

Argued November 19, 2013 - Remanded December 6, 2013  
- Reargued April 13, 2015 - Decided May 12, 2015

On certification to the Superior Court,  
Appellate Division.

Alicia J. Hubbard, Assistant Deputy Public  
Defender, argued the cause for appellant  
(Joseph E. Krakora, Public Defender,  
attorney).

Steven A. Yomtov, Deputy Attorney General,  
argued the cause for respondent (John J.  
Hoffman, Acting Attorney General of New  
Jersey, attorney).

This case involves a warrantless search. The State,  
therefore, must establish by a preponderance of the evidence  
that the search was justified under a recognized exception to  
the warrant requirement. See State v. Edmonds, 211 N.J. 117,  
128-30 (2012).

The trial court made findings on remand, to which we defer.  
See State v. Elders, 192 N.J. 224, 243-44 (2007) (noting that in

reviewing motion to suppress, appellate court should uphold trial court's factual findings so long as they are "supported by sufficient credible evidence in the record" and should not disturb those findings merely because "it might have reached a different conclusion were it the trial tribunal" (internal quotation marks omitted)).

In light of the trial court's findings on remand, the State has not met its burden. Neither the automobile exception nor the plain view exception to the warrant requirement applies. See State v. Pena-Flores, 198 N.J. 6, 28 (2009); State v. Bruzzese, 94 N.J. 210, 236 (1983).

The judgment of the Appellate Division is accordingly reversed, and defendant's conviction for possession of heroin with intent to distribute is vacated.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this 12th day of May, 2015.

CLERK OF THE SUPREME COURT