

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 162

September Term, 2025

KENNETH L. WILLIAMS, JR.

v.

STATE OF MARYLAND

Wells, C.J.,
Zic,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Harrell, J.

Filed: March 17, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

In 2012, a jury in the Circuit Court for Baltimore City found appellant, Kenneth L. Williams, Jr., guilty of attempted murder in the second degree, use of a handgun in the commission of a crime of violence, robbery with a dangerous weapon, conspiracy to commit assault in the first degree, and related offenses, including six companion counts of conspiracy. The court imposed aggregate terms of incarceration totaling eighty years. *Williams v. State*, No. 1297, Sept. Term, 2012 (“*Williams I*”), slip op. at 5 (filed Feb. 6, 2014). On direct appeal, we affirmed in part, vacated in part (merging the seven convictions for conspiracy into a single conviction for conspiracy to commit first-degree assault), and corrected Williams’s sentences to an aggregate term of seventy years. *Id.* at 15-25.

In 2022, Williams filed a postconviction petition, asserting, among other things, that his trial counsel was ineffective in failing to move to suppress evidence found following a warrantless entry into his girlfriend’s dwelling (where he occasionally lived).¹ The gravamen of Williams’s claim was that, in *Redmond v. State*, 213 Md. App. 163 (2013), decided after Williams’s trial, we disapproved the same investigative technique (consent-by-trickery) used to gain entry into the residence here. Williams deems his trial counsel to have been ineffective in failing to move to suppress evidence on that basis. Although Williams recognized ostensibly that his trial counsel could not have been expected to anticipate a future, favorable appellate decision, he claimed that his counsel

¹ The leaseholder was Williams’s then-girlfriend, Jerri Bobbitt. The postconviction court assumed, without deciding, that Williams would have had standing to challenge the search of Ms. Bobbitt’s home. To avoid clumsy verbal constructions, we shall refer to this home as Ms. Bobbitt’s home.

should have recognized nonetheless that, under then-extant law, a motion to suppress would have been granted probably. The postconviction court denied Williams’s claim. We granted his application for leave to appeal to review that decision. Finding no error, we shall affirm.

BACKGROUND

Direct Appeal

We quote the factual summary from our unreported opinion in Williams’s direct appeal:

Shortly after midnight on July 15, 2010, Terrell Ray, Richard Moore, and Janelle Jacquette left Mr. Moore’s mother’s house in West Baltimore for Mr. Moore’s house further downtown. Their planned ride fell through, and after waiting fruitlessly for a bus, they began to walk east down Baltimore Street. But they had a long walk ahead, and after covering a few blocks, the group hailed a “hack”—an unlicensed taxi—and climbed into the back seat of a dark, four-door sedan. Mr. Moore sat behind the driver, Ms. Jacquette in the middle, and Mr. Ray on the right (behind the front passenger).

Once inside the vehicle, the three back-seat passengers noticed another individual sitting in the front passenger seat and that the vehicle’s rear-view mirror was covered with something black. After traveling for several minutes, the vehicle came to a stop. The front passenger turned to face the back seat, pointed a gun at Mr. Ray, and demanded that Mr. Ray hand over everything in his possession. Mr. Ray emptied his pockets and gave the contents, including a cell phone and a credit card, to the man. While the front passenger was robbing Mr. Ray, the driver turned around, pointed a gun at Mr. Moore, and demanded the same. Mr. Moore emptied and handed over the contents of his pockets, which included a cell phone and a wallet containing approximately \$12. Neither man demanded anything from Ms. Jacquette.

The two men in the front seat then commanded the back-seat passengers to get out of the vehicle. Mr. Moore and Ms. Jacquette exited through the driver-side door while Mr. Ray waited for Ms. Jacquette to step out, and then he exited through the passenger-side door. As Ms. Jacquette

and Mr. Ray left the car, they heard the front passenger threaten to shoot Mr. Ray because he hadn't handed over any money. As Mr. Ray stepped out of the back seat, he felt a gunshot hit him in the upper left thigh.

In the course of questioning immediately after the robbery, Mr. Moore provided the police with the phone number for the cell phone the driver took from him. They determined that several hours after the robbery, Mr. Moore's phone had placed a call to a residence on West Baltimore Street. Officers went to the residence and gained consent to enter.^[2] An officer then used his own phone to dial Mr. Moore's cell phone and heard the phone ring from the back pants pocket of Mr. Williams while he lay face down on a bed playing with a different cell phone. Mr. Williams was arrested and charged, in nine separate indictments, with twenty-seven counts stemming from the incident.

Williams I, slip op. at 1-3 (footnote omitted).

After the jury found him guilty of sixteen of the eighteen counts that were sent to the jury, the court sentenced Williams to terms of imprisonment totaling eighty years. *Id.* at 4-5. He noted an appeal, raising four issues, none of which is pertinent to the present appeal. *Id.* at 5-6 & n.5. His appeal succeeded in the vacatur of multiple conspiracy convictions and the correction of his sentence to conform to that announced in open court. As a result, his overall sentence was reduced to seventy years. *Id.* at 15-25. Notably, no challenge was raised to the consent search that led police to recover the victim's cell phone from Williams's person.

² Because Williams's trial counsel did not move to suppress the evidence obtained thereafter, no issue was raised in his direct appeal regarding the voluntariness of the leaseholder's consent.

Postconviction Proceedings

In July 2022, Williams filed a postconviction petition, raising four claims³:

1. [Williams] was denied his Sixth Amendment right to effective assistance of counsel when Trial Counsel failed to move to suppress evidence obtained in violation of the Fourth Amendment.
2. Trial Counsel failed to object to impermissible hearsay used by the State to undermine a primary theory of defense.
3. Trial Counsel failed to convey the State’s plea offer.
4. Trial Counsel failed to seek a hearing on [Williams’s] Motion for modification and/or failed to instruct him to do so pro se or, in the alternative, [Williams] was denied his right to counsel for purposes of pursuing a hearing on his motion.

Williams did not claim purportedly that his trial counsel was ineffective in failing to anticipate the holding in *Redmond*. Rather, he claimed that his trial counsel failed to investigate the suppression issue and was unaware that, under Maryland law as of the time of his trial—*Brown v. State*, 378 Md. 355 (2003), and *Perkins v. State*, 83 Md. App. 341 (1990)—the use of a ruse to obtain consent to search a dwelling vitiated that consent.⁴ Thus, according to Williams, “*Redmond* resolved the distinction between these cases [*Brown* and *Perkins*] readily[,]” and “had Trial Counsel moved to suppress the evidence,

³ Only the first claim in Williams’s postconviction petition is relevant to this appeal.

⁴ Anticipating an objection raised thereafter by the State, Williams asserted that, though he did not have a key to the residence at issue, “[h]e kept belongings” there, he “slept” there, and he “took care of his personal hygiene” there. Furthermore, according to Williams, “he was free to come and go as he pleased and was permitted to entertain other friends and guests at the home.” Therefore, Williams concluded, he had standing to raise a Fourth Amendment challenge to the warrantless entry into the residence.

the result would have been identical to that in *Redmond* — the search would have been declared unlawful.”

Moreover, according to Williams, had a motion to suppress been granted,⁵ “all — or nearly all — of the State’s evidence of guilt is directly traceable to the unlawful search of the residence, which resulted in [Williams’s] unlawful arrest, and the discovery of the cell phone.” Thus, Williams asserted, prejudice is established, and he is entitled to vacatur of his convictions and sentences.

The State countered that the residence at issue did not belong to Williams, pointing to charging documents that had been filed in this case, which indicate a different residence address. According to the State, there is “no evidence” that Williams had “a key, personal [e]ffects,” or the ability to invite or exclude persons from the residence at issue. Therefore, he lacked standing to raise a claim of a Fourth Amendment violation. Even were it assumed that Williams had standing, there was, according to the State, an exigent circumstance— that the victim’s cell phone had been traced to the residence at issue just several hours after the armed robbery and shooting—justifying the warrantless entry into the dwelling. Thus, the State concluded, a motion to suppress evidence “most likely would have been denied[,]” and therefore, trial counsel was not ineffective.

⁵ Williams pointed out that a trial court “is presumed to know and follow the law[,]” and “[t]herefore, it should be presumed that the motion would have been granted.” Even if the motion had been denied, Williams asserted, he would have had a meritorious claim on appeal.

Williams called two witnesses at the postconviction hearing: Williams’s former girlfriend, Jerri Bobbitt, and himself. We summarize their testimony as it pertained to the claim raised in this appeal.

Ms. Bobbitt testified that, in July 2010, she was living at a residence on West Baltimore Street⁶ with her three sons and her mother. According to Ms. Bobbitt, Williams stayed overnight at her home several nights a week, but his name “wasn’t on the lease.” Williams could “come over whenever he wanted[,]” and although he did not have a key, he had “free access to the home[.]” Williams “had a drawer” and “had some clothes there.”

Either late in the morning or early in the afternoon of 15 July 2010, police officers knocked on the door to Ms. Bobbitt’s home. When she opened the door, they told her that “there was a pedophile in the area[,]” and they produced a photograph that they were showing to people, going from “house to house[.]” After Ms. Bobbitt told the officers that she “did not recognize the gentleman” depicted in the photograph, the officers obtained her permission to enter her home to show the photograph to the other occupants. “Once they came in,” however, the officers “held” her “hostage,” took her minor children “to a police precinct to interrogate them[,]” and “took [Williams] out [of] the house.” Eventually, police

⁶ Ms. Bobbitt was unable to remember the address, but both parties agree that it was the same house where the contested consent search occurred in 2010.

officers executed a search warrant of the home, “[tearing] through everything, looking for” a “phone or something.” Ms. Bobbitt “did not recall a phone ringing[.]”⁷

Williams testified that he had been dating Ms. Bobbitt for two months prior to the crimes and that he showered, cooked, and slept at her home the “[m]ajority of the week.” According to Williams, he kept “[m]ost” of his belongings at Ms. Bobbitt’s home. Williams testified further that he could enter Ms. Bobbitt’s home as frequently as he wished because the door would be unlocked, but that, at “[o]ther times,” she loaned her key to him. Ultimately, he obtained his own copy of her key. During cross-examination, Williams conceded that, when he was arrested, he gave police a different address for himself on Reisterstown Road, where his mother lived.

Williams’s postconviction counsel offered as evidence a copy of the unreported opinion in the direct appeal and the trial transcripts. The postconviction court admitted, without objection, those documents into evidence. The transcripts included pertinent testimony from two police officers involved in the warrantless entry into Ms. Bobbitt’s home: Officers Adam Freedman and Sean Dallessandro.

Freedman, who was, at the time of the search, a Baltimore City Police detective in the Advanced Technical Team, described the investigative steps he took when informed of Richard Moore’s cell phone number. He contacted Moore’s cell phone service provider and obtained a pen register, which permitted him to observe the phone numbers associated

⁷ Police testified at Williams’s trial that, shortly after obtaining Ms. Bobbitt’s consent to enter her home, they called the victim’s phone, heard it ring, and followed the ringtone upstairs, where they discovered the phone in Williams’s pocket.

with incoming and outgoing calls to and from that cell phone. Freedman observed that, on the morning of 15 July 2010, the stolen cell phone was used to place a call to a landline phone at Ms. Bobbitt’s address.

Freedman, with several other police officers, went to that address. He knocked on the door and told the occupant that he was trying to locate a person who had failed to register as a sex offender, a technique that he acknowledged was a “ruse” used to obtain the occupant’s consent to enter her home. Once he entered, he used his police-issued cell phone to call Moore’s phone, whereupon he heard a phone ringing. Because the target phone was not answered apparently, he walked upstairs towards the source of the audible ringtone and called the phone number again. He discovered that the stolen phone was in Williams’s back pocket.

Dallessandro was a Baltimore City Police detective involved in the investigation of the case. He contacted Freedman and informed him of Moore’s cell phone number. Several hours later, Freedman’s team notified Dallessandro that the victim’s cell phone had been located at an address on West Baltimore Street (where Ms. Bobbitt lived). Another detective prepared a search warrant for that location. When Dallessandro went to that location to serve the warrant, he discovered that Freedman’s tactical team had been there already and had found the stolen phone in Williams’s back pocket.

Several months after the hearing, the postconviction court issued a memorandum opinion and order denying Williams’s claims. The court opined in relevant part:

Here, in the absence of the holding in the *Redmond* case, trial counsel would have relied upon the guidance provided in *Perkins* and *Brown* as to

the reasonableness of the actions of the police officers and the trial court would have relied upon these holdings as part of their analysis of any motion to suppress evidence. The trial court would have had the discretion under a totality of the circumstances test to decide whether the consent and subsequent evidence discovered was improper. Likewise, Trial Counsel cannot be held responsible to anticipate a later decided Appellate Court decision in *Redmond*. Under *Strickland* [*v. Washington*, 466 U.S. 668 (1984)], the effectiveness of a trial attorney's actions is assessed on a standard of reasonableness in which that attorney is evaluated based on what would have been a reasonable action based on the information available to them at the time of the proceeding. 466 U.S. at 689. A trial attorney is provided heavy deference when examining what actions were or were not taken. *Id.* at 691.

Here, [Williams] has not demonstrated that his trial attorney's actions were unreasonable based on the case law at the time of trial. As illustrated by the *Redmond* case itself, prior to the Appellate Court's decision in *Redmond* there existed the probability that a trial court would have denied such a motion to suppress. Further, Ms. Bobbitt's testimony during the Post-Conviction Hearing was that she had given the officers her consent to show the picture of the sex offender to the other people in the house and that she was aware they were police officers when she gave her consent. Therefore, the holding in *Brown* is more analogous to this case, in that the ruse was only utilized to get the door open and that her consent was not overridden by the deception.

[Williams] has not convinced this Court that the police officers did not have a valid search and seizure warrant when they ultimately searched the home. Additionally, other than the telephone found on [Williams's] person, there is no assertion that any items recovered during the subsequent search of the home were used in the prosecution.

As such, [Williams's] assertion is found to be without merit and the requested post-conviction relief on this ground is denied.

Williams filed an application for leave to appeal, raising a single question (and thereby abandoning his other three claims):

Did the Post-Conviction Court err when it concluded that Williams' Trial Counsel did not perform deficiently by failing to file a motion to suppress evidence under the Fourth Amendment based upon a flawed understanding

of retroactivity that resulted in the Court reaching a conclusion that is inconsistent with *Redmond v. State*, 213 Md. App. 163 (2013)?

We granted his application and transferred the matter to our regular docket.

DISCUSSION

Standard of Review

We review for clear error a postconviction court’s factual findings, but we review without deference its legal conclusions, “including a conclusion as to whether the petitioner received ineffective assistance of counsel.” *State v. Brand*, 265 Md. App. 112, 144 (quoting *Ramirez v. State*, 464 Md. 532, 560 (2019)), *cert. denied*, 491 Md. 639 (2025). *Accord McGhee v. State*, 482 Md. 48, 66 (2022).

Ineffective Assistance of Counsel

“The Sixth Amendment to the Constitution of the United States, applicable to the states through the Due Process Clause of the Fourteenth Amendment, guarantees to an accused the right to assistance of counsel.” *Brand*, 265 Md. App. at 144. “Article 21 of the Maryland Declaration of Rights provides a commensurate guarantee.” *Id.* “The right to counsel means ‘the right to the effective assistance of counsel.’” *Id.* (quoting *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970)). “The benchmark for judging any claim of ineffectiveness must be whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” *Strickland*, 466 U.S. at 686.

A convicted person raising a claim of ineffective assistance of counsel “must make two showings.” *McGhee*, 482 Md. at 66. “First, the defendant must show that counsel’s

performance was deficient.” *Strickland*, 466 U.S. at 687. “Second, the defendant must show that the deficient performance prejudiced the defense.” *Id.* “Because the defendant bears the burden to prove both elements of a *Strickland* claim, the failure to establish either element must result in the denial of his claim.” *Brand*, 265 Md. App. at 146.

To prevail on the first prong (deficient performance), “the defendant must show that counsel’s representation fell below an objective standard of reasonableness.” *Strickland*, 466 U.S. at 688. “Judicial scrutiny of counsel’s performance must be highly deferential.” *Id.* at 689. Applying “a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance[,]” we determine whether the defendant has rebutted “the presumption that, under the circumstances, the challenged action ‘might be considered sound trial strategy.’” *Id.* (quoting *Michel v. Louisiana*, 350 U.S. 91, 101 (1955)). We must make “every effort” to avoid engaging in hindsight; thus, in determining whether counsel acted reasonably, we “reconstruct the circumstances of counsel’s challenged conduct” and evaluate that conduct “from counsel’s perspective at the time.” *Id.*

“[A]ny deficiencies in counsel’s performance must be prejudicial to the defense in order to constitute ineffective assistance under the Constitution.” *Id.* at 692. Subject to narrow exceptions not applicable here,⁸ a defendant claiming a violation of his right to counsel because of attorney error “must show that there is a reasonable probability that,

⁸ In *Brand*, 265 Md. App. at 148-150, we discuss those exceptions in more detail.

but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id.*

Parties’ Contentions

Williams, citing *State v. Daughtry*, 419 Md. 35 (2011), contends that *Redmond* applied merely existing law as of the time of his 2012 trial and, thus, ““applies retroactively in the same manner as most court decisions.”” *Id.* at 78 (quoting *Houghton v. Cnty. Comm’n’s of Kent Cnty.*, 307 Md. 216, 220 (1986)). In effect, Williams asks us to reverse-engineer *Redmond* by relying upon the two principal decisions (both of which predated his 2012 trial), *Perkins* and *Brown*, that *Redmond* relied upon in reaching its holding. According to Williams, reasonably competent counsel would have recognized that, applying *Perkins* and *Brown*, the warrantless search of his dwelling would be deemed likely illegal by the courts. Therefore, his trial counsel performed deficiently in failing to move to suppress the evidence recovered from that search. Moreover, he claims he suffered prejudice because evidence that was crucial to the State in obtaining his conviction, including the victim’s cell phone, the pretrial identification, and Williams’s statements to police, would have been suppressed.

The State counters that the postconviction court found properly that Williams’s trial counsel did not render deficient performance and that, furthermore, because police did obtain a search warrant (albeit belatedly) for Ms. Bobbitt’s home, Williams did not show prejudice. Relying upon *McGhee*, the State asserts that the postconviction court applied

correctly the principle of retroactivity in the context of a *Strickland* claim, declining to require that trial counsel anticipate a future appellate decision based on facts analogous to those in his case.

As the State points out, *Brown* stated approvingly that “artifice and stratagem may be employed to catch those engaged in criminal enterprises” and “that a police officer ‘may legitimately obtain an invitation into a house by misrepresenting his identity[.]’” (Quoting *Brown*, 378 Md. at 362-63.) Thus, contends the State, trial counsel could have concluded reasonably that a motion to suppress was unlikely to succeed. The State further asserts that, although *Redmond* disapproved a “ransacking” of the premises following a warrantless entry, here, in contrast, there was no “ransacking,” but rather the mere retrieval of the stolen phone found ringing in Williams’s back pocket. Thus, according to the State, for this additional reason, it is unlikely that a motion to suppress would have been granted. Therefore, Williams cannot show prejudice.

Analysis

We begin by summarizing the essential facts and holding of *McGhee* because that decision is an instructive authority most nearly comparable to the present case. McGhee was tried by a jury in 2007 and found guilty of murder. He filed a postconviction petition claiming that his trial counsel was ineffective in failing to object to an “anti-CSI-effect” voir dire question. At the time of his trial, the only extant Maryland case law was *Evans v. State*, 174 Md. App. 549 (2007), which in dicta had approved seemingly an “anti-CSI-effect” jury instruction.

After McGhee’s trial, in a trilogy of cases, *Charles v. State*, 414 Md. 726 (2010), *Atkins v. State*, 421 Md. 434 (2011), and *Stabb v. State*, 423 Md. 454 (2011), the Supreme Court of Maryland “held in each that a CSI-effect message from the bench constituted reversible error.” *McGhee*, 482 Md. at 52. Each of those decisions involved voir dire questions, whereas *Evans* involved a jury instruction. McGhee argued in the Supreme Court that it should “determine whether *Charles*, *Atkins*, and *Stabb* applied settled precedent to new facts[,]” in which case those decisions should apply retroactively, “or announced a new principle of law[,]” in which case they would not. *Id.* at 68.

The Supreme Court of Maryland held that retroactivity of subsequent appellate decisions was incompatible with *Strickland*’s performance prong, which requires that trial counsel’s actions be evaluated from counsel’s perspective at the time of the challenged action (or inaction). *Id.* at 68-73. In affirming our decision denying McGhee’s postconviction claim, the Court reasoned:

In order to satisfy McGhee’s standard of objectively reasonable representation, an attorney in December 2007 would have to have been familiar with the budding controversy surrounding CSI-effect jury instructions. They would have to have been aware of the one Court of Special Appeals opinion from May 2007 that touched on the CSI effect, but without referring to it as the “CSI effect.” Assuming they were familiar with the *Evans* opinion, the attorney would have to have looked past the fact that the *Evans* Court upheld the CSI-effect jury instruction in that case. They also would have to have looked past the fact that the intermediate appellate court’s discussion of this issue was dicta. From there, they would have to have extrapolated that dicta related to jury instructions also applied to voir dire questions. We do not believe it is reasonable to expect an attorney in December 2007 to have made all of these connections.

Id. at 74-75.

We turn to the present case, beginning with the legal landscape at the time of Williams’s trial. In addition to *Perkins* and *Brown*, we consider a third pertinent decision not mentioned by either party, *Scott v. State*, 366 Md. 121 (2001).

In *Perkins*, 83 Md. App. 341, we held that a police entry and search of a hotel room, ostensibly with the occupant’s consent, was unconstitutional. We began by noting that “[t]he police justification for approaching the room in the first instance was very strained.” *Id.* at 347. A police officer approached the night desk at the hotel, where the clerk told him that “she believed there was a subject staying in a room by the name of Ravon Perkins who was wanted because another police officer had been inquiring about that individual just days before, and she had rented a room to him.” *Id.* After confirming that there were no open warrants for Perkins, the officer went to Perkins’s room, purportedly to verify his identity. *Id.* He obtained a pass key from the clerk, leading us to wonder, “What possible purpose could the passkey have served if [the police] fully intended, as we are asked to believe, to honor [Perkins’s] right either to grant or to withhold consent?” *Id.* at 348.

One of the officers knocked on the door with a metal flashlight (at 2:30 a.m.), and when a male voice asked who was there, an officer replied, “Howard County Police, open the door.” *Id.* There was conflicting testimony about whether the police entered the hotel room with Perkins’s consent, but even assuming the police officer’s version, which was that he told Perkins that he was there to investigate a noise complaint, that officer later testified at the suppression hearing that there had been no noise complaint. *Id.* at 349. We said: “The use of deception to obtain the opening of a door erodes the consensual quality

of that opening.” *Id.* at 350. Adding insult to injury, the scope of the intrusion then exceeded vastly the initial justification offered by the officers; instead of investigating the fictitious noise complaint, police officers searched Perkins’s room for drugs and paraphernalia. *Id.* at 351-52. We held, therefore, that “[t]he physical evidence seized in [Perkins’s] room should have been suppressed.” *Id.* at 352.

In *Scott*, 366 Md. at 124, the Supreme Court held that a “knock and talk” procedure, “whereby police randomly knock on motel room doors at 11:30 p.m. to question the occupants in hopes that the occupants will allow the police to enter and ultimately consent to a search,” does not violate the Fourth Amendment or Article 26 of the Maryland Declaration of Rights, even though “such a procedure is carried out in the absence of articulable suspicion or probable cause[.]” In reaching that decision, the Court announced two principal holdings: a nighttime “knock and talk” is not a seizure, at least under the totality of the circumstances in that case, *id.* at 138-39; and, although a “*subject’s knowledge of a right to refuse*” to consent to a search is a factor in a Fourth Amendment analysis, “*the prosecution is not required to demonstrate such knowledge as a prerequisite to establishing a voluntary consent.*” *Id.* at 141-42 (quotation marks and citation omitted).

In *Brown*, 378 Md. 355, the Supreme Court upheld a warrantless search of a dwelling that began with a ruse. A Maryland State Trooper, George Wooden, acting on a suspicion of drug activity (which did not rise even to the low level of reasonable suspicion) approached the door of a motel room around 10 a.m. and, “accompanied by two other officers,” knocked on the door, claiming to be “maintenance.” *Id.* at 359. The Trooper, who

was in plain clothes, entered the room and identified himself as a police officer, asking “if he could come in and talk with” Brown. *Id.* Upon entering, the Trooper noticed a “strong[]” smell of marijuana, and, after observing Brown in possession of a marijuana cigarette, he asked for and was granted permission (according to the Trooper) to search the motel room. *Id.* at 359-60. That search yielded \$926 in cash, “a digital scale with white powder on it,” and “a cache of cocaine.” *Id.* at 360.

The Supreme Court began its analysis by casting shade seemingly on our decision in *Perkins*, albeit concluding that the “correctness” of that decision was not before it. *Id.* at 362. It observed then that police deployment of deception to obtain consent to a search “does not, of itself, preclude a finding that the consent is valid, but simply is a factor, albeit an important one, that must be considered in determining the reality and voluntariness of the consent.” *Id.* The Court reiterated that the “ultimate test” for assessing the voluntariness of a consent search “remains that enunciated in [*Schneckloth v. Bustamonte*, 412 U.S. 218 (1973),] and confirmed in [*Ohio v. Robinette*, 519 U.S. 33 (1996)]—the totality of the circumstances.” *Id.* The Court catalogued cases from the Supreme Court of the United States and many lower courts that approved police use of deception as “a proper tool in crime detection” that “does not necessarily contravene any Fourth Amendment rights.” *Id.* The Court distinguished *Perkins* from the matter before it, noting that Trooper Wooden used deception only to induce Brown to open the door to his motel room and that, once he entered, Wooden identified himself as a police officer. *Id.* at 365. Thus, reasoned our Highest Court, the Trooper’s entry into the room, which “led to the observation in plain

view of the marijuana cigarette and, upon [Brown’s] ensuing consent, discovery of the scale, the cocaine, and the cash was not induced by deception, either as to Wooden’s identity or purpose.” *Id.*

Considered in the proper context of *Perkins*, *Scott*, and *Brown*, we conclude that Williams failed to show that his trial counsel performed deficiently in failing to move to suppress the evidence recovered as a result of the warrantless search of Ms. Bobbitt’s home. To begin with, Williams gave police a different home address than Ms. Bobbitt’s when he was arrested. Trial counsel could have decided reasonably that it would be difficult to prove that Williams had standing to challenge the warrantless entry into Ms. Bobbitt’s home, an entry to which she consented seemingly.

Furthermore, even had it been possible for trial counsel to overcome the hurdle of questionable standing, it is not enough to show (as *Redmond*, with the benefit of 20-20 hindsight, would illustrate *after* Williams’s trial) that a motion to suppress might have or probably would have succeeded. Rather, to show deficient performance, Williams was required to prove that it was unreasonable objectively for trial counsel to fail to move to suppress the evidence in his case, a substantially greater showing. *See Strickland*, 466 U.S. at 688 (explaining that “the defendant must show that counsel’s representation fell below an objective standard of reasonableness”).⁹

⁹ In Brief of Appellee at *7-14, *Redmond v. State*, 213 Md. App. 163 (2013) (No. 2281, Sept. Term, 2010), 2013 WL 3490854, the State relied upon *Bustamonte*, *Scott*, and *Brown* to argue that the search in that case was lawful because a third party had consented (continued...)

Under *Scott*, it would have been permissible for Detective Freedman to “knock and talk” to Ms. Bobbitt, even in the absence of reasonable suspicion, whereas in this case, Freedman knew that Moore’s cell phone had been linked to her home through its pen register. Moreover, given the holding in *Brown* and its language casting doubt on *Perkins* and approving seemingly the police use of deception to obtain consent to search, we conclude that Williams’s trial counsel could have decided reasonably not to raise a Fourth Amendment challenge. The subsequent holding in *Redmond* would not have been obvious sufficiently at the time of Williams’s trial such that it would have been unreasonable objectively to fail to move to suppress the evidence.

In the present case, Williams does not demand that his trial counsel have made quite as many connections as trial counsel in *McGhee* was expected to do (by McGhee). *McGhee*, 482 Md. at 74-75. We conclude nonetheless that *McGhee* compels a similar result here.

In passing, the postconviction court found that Williams did “not convince[] this Court that the police officers did not have a valid search and seizure warrant when they ultimately searched the home.” This suggests that, even were we to assume that the initial entry into Ms. Bobbitt’s home was illegal, a motion to suppress still would have been denied because of the inevitable discovery doctrine. *Utah v. Strieff*, 579 U.S. 232, 238 (2016) (citing *Murray v. United States*, 487 U.S. 533, 537 (1988), and *Nix v. Williams*, 467

to it. Although we disagreed ultimately with that argument, we do not think that it was unreasonable objectively.

U.S. 431, 443-44 (1984)). This is a further reason to conclude that, not only did trial counsel act reasonably, but Williams failed to prove prejudice.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS ASSESSED TO APPELLANT.**