

**FORTH DIVISION
RICKMAN, C. J.,
DILLARD, P. J., and BROWN, J.**

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July 26, 2022

In the Court of Appeals of Georgia

A20A0993. GEORGE v. THE STATE.

RICKMAN, Chief Judge.

This is the second appearance of this case before us. In an unpublished opinion, we affirmed Harold George's 2018 convictions for child molestation, enticing a child for indecent purposes, and sexual battery. *George v. State*, 357 Ga. App. XXIV (Case No. A20A0993) (Oct. 23, 2020) (unpublished). In Division 1 (b) of our opinion, we rejected George's claim that the trial court erred when it denied his motion to suppress evidence seized during a search when that evidence was not specifically listed in the search warrant. *Id.* at *8 (1) (b).

On certiorari, the Supreme Court of Georgia overruled the line of authority on which we had relied, including *Walsh v. State*, 236 Ga. App. 558, 560 (1) (b) (512 SE2d 408) (1999), and *McBee v. State*, 228 Ga. App. 16, 21 (3) (491 SE2d 97) (1997), and concluded that we had "erred in considering the relevance of evidence

alone as justifying its seizure outside the scope of a search warrant, without considering whether the requirements of the plain view doctrine have been met.” *George v. State*, 312 Ga. 801, 807 (865 SE2d 127) (2021). The Supreme Court then vacated our opinion and remanded to this Court “with instructions for it to vacate the trial court’s order on George’s motion for new trial and remand the case to the trial court with direction to reconsider the motion consistent with the law set forth in this opinion.” *Id.* Based on our review of *George v. State*, 312 Ga. 801, we conclude that the rulings in that decision implicate only Division 1 (b) of our opinion in *George v. State*, 357 Ga. App. XXIV. Accordingly, we vacate Division 1 (b) of our prior opinion in *George v. State*, 357 Ga. App. XXIV, and adopt the opinion of the Supreme Court in *George v. State*, 312 Ga. 801, with respect to that division. Divisions 1 (a), 2, 3, and 4 of our opinion were not affected by the Supreme Court’s decision and thus remain in effect. See *Shadix v. Carroll County*, 274 Ga. 560, 563-564 (1) (554 SE2d 465) (2001). We also vacate the trial court’s order denying George’s motion for new trial and remand with direction that the trial court reconsider that motion consistent with the law stated in the Supreme Court’s opinion.

Judgment affirmed in part and vacated in part, and case remanded with direction. Dillard, P. J., and Brown, J., concur.