

**RECEIVED**

**Jul 18 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

---

APPEAL FROM SPARTANBURG COUNTY

Court of General Sessions  
The Honorable Grace Gilchrist Knie, Circuit Court Judge

---

Court of Appeals Case No. 2023-000511

---

The State,

Respondent,

v.

Keith Vincent Brown,

Appellant.

---

Final Brief of Respondent

---

ALAN WILSON  
Attorney General

AMIE L. CLIFFORD  
Special Assistant Attorney General  
aclifford@cpc.sc.gov  
S.C. Bar No. 1285

Post Office Box 11549  
Columbia, South Carolina  
29211 (803) 734-3727

BARRY J. BARNETTE  
Solicitor, Seventh Judicial Circuit

Spartanburg County  
Courthouse 180 Magnolia St.  
Spartanburg, South Carolina 29306  
(864) 596-2575

ATTORNEYS FOR RESPONDENT

## TABLE OF CONTENTS

Table of Authorities .....	3
Statement of Issue on Appeal .....	5
Statement of the Case .....	6
Standard of Review .....	7
Argument	
I. The trial court properly admitted evidence found as the result of the investigatory stop of Appellant because the stop was supported by reasonable suspicion that he was involved in the burglary of the victims' residence that had recently occurred a short distance away .....	8
Summary of Relevant Facts .....	8
Argument .....	17
Conclusion .....	21

## TABLE OF AUTHORITIES

### South Carolina Cases

<i>Robinson v. State</i> , 407 S.C. 169, 754 S.E.2d 862 (2014) .....	18
<i>State v. Baccus</i> , 367 S.C. 41, 625 S.E.2d 216 (2006) .....	7
<i>State v. Bultron</i> , 318 S.C. 323, 457 S.E.2d 616 (1995) .....	18
<i>State v. Burgess</i> , 394 S.C. 407, 714 S.E.2d 917 (Ct. App. 2011) .....	18, 20
<i>State v. Corley</i> , 392 S.C. 125, 708 S.E.2d 217 (2011) .....	19
<i>State v. Frasier</i> , 437 S.C. 625, 879 S.E.2d 762 (2022) .....	7, 18
<i>State v. Frazier</i> , 394 S.C. 213, 715 S.E.2d 650 (Ct. App. 2011) .....	19, 20
<i>State v. German</i> , 439 S.C. 449, 887 S.E.2d 912 (2023) .....	7
<i>State v. Robinson</i> , 396 S.C. 577, 722 S.E.2d 820 (Ct. App. 2012) .....	18
<i>State v. Rodriquez</i> , 323 S.C. 484, 476 S.E.2d 161 (Ct. App. 1996) .....	18, 19, 20

### Cases from the Supreme Court of the United States

<i>Illinois v. McArthur</i> , 531 U.S. 326 (2001) .....	17
<i>Ohio v. Robinette</i> , 519 U.S. 33, 38. (1996) .....	18
<i>Flippo v. West Virginia</i> , 528 U.S. 11 (1999) .....	18
<i>Terry v. Ohio</i> , 392 U.S. 1 (1968) .....	14, 15
<i>United States v. Arvizu</i> , 534 U.S. 266 (2002) .....	20
<i>U.S. v. Hensley</i> , 469 U.S. 221 (1985) .....	19

### Constitutional and Statutory Provisions

Rule 208(b)(I)(D), SCACR .....	21
--------------------------------	----

U.S. Const. amend IV .....17  
S.C. Const. art. I, § 10.....17  
S.C. Code Ann. Section 24-21-430..... 16

**STATEMENT OF ISSUE ON APPEAL**

Did the trial court err by admitting evidence found pursuant to an improper stop that was not supported by reasonable suspicion?

**COUNTER-STATEMENT OF ISSUES ON APPEAL**

Did the trial court commit reversible error in admitting evidence found as the result of the investigatory stop of Appellant when the officer had a reasonable suspicion supported by articulable facts that Appellant may have been engaged in criminal activity?

## **STATEMENT OF THE CASE**

Appellant was indicted for the offenses of burglary in the first degree and petit larceny. (Indictments 2022-GS-42-1832 and 1833). He pled not guilty and was tried before a jury in Spartanburg County on March 14-16, 2023. At the conclusion of his trial, the jury found Appellant guilty as charged. The trial court thereafter sentenced Appellant to life imprisonment without parole on the burglary conviction (under S.C. Code Section 17-25-45) and a concurrent 10-year term of imprisonment on the petit larceny conviction.

This appeal follows.

## STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). “Appellate review of a motion to suppress based on the Fourth Amendment involves a two-step analysis. This dual inquiry means [the appellate court reviews] the trial court’s factual findings for any evidentiary support, but the ultimate legal conclusion—in this case whether reasonable suspicion exists—is a question of law subject to de novo review.” *State v. Frasier*, 437 S.C. 625, 633-34, 879 S.E.2d 762, 766 (2022). *See also State v. German*, 439 S.C. 449, 459, 887 S.E.2d 912, 917 (2023).

## ARGUMENT

**The trial court properly admitted evidence found as the result of the investigatory stop of Appellant because the stop was supported by reasonable suspicion that he was involved in the burglary of the victims' residence that had recently occurred a short distance away.** (Issue I)

### Summary of Relevant Evidence

Prior to the beginning of Appellant's trial, an in-camera hearing was held on his motion to suppress Appellant's statements, the remote control and wallet discovered during the investigative stop of him by Deputy Joshua Chrobak, of the Spartanburg County Sheriff's Office, and any testimony about discovery of the remote and wallet. The motion was based on the defense's assertion that the stop was improper because it was not supported by reasonable suspicion. (R. p. 2, line 25 – p. 3, line 6.)

During the hearing, Jessica Webber testified that, on October 5, 2021, she and her family lived next door to her sister and her roommate on the [REDACTED] block of Parris Bridge Road in Spartanburg County. (R. p. 5, line 19 – p. 6, line 6; p. 11, lines 18-20.) Behind the houses are trees, blackberry bushes, and briars. (R. p. 15, lines 15-18.) She had lived in that area for a total of approximately 38 years, and her whole family lives in that area. (R. p. 6, lines 7-16.) Because they all live near each other, they always kept "an eye out on things." (R. p. 7, lines 20-21.)

Ms. Webber described the area as rural and close to Lake Blalock, with nothing but houses, except for an upholstery shop nearby. (R. p. 6, lines 18-20.) She said that there isn't a lot of foot traffic in the area, and the road is a "pretty busy" one. She knows everyone who lives around the area and, if she sees someone she does not know, it is suspicious. (R. p. 6, line 21 – p. 7, line 3.)

Shortly after 8:00 p.m. on October 5, 2021, Mrs. Webber was coming home from Westgate with her husband and children. (R. p. 7, lines 16-19). When they passed her sister's house at ■■■ Parris Bridge Road, she noticed a strange car<sup>1</sup> backed up to the back porch. (R. p. 7, lines 22-25; p. 10, line 2 – p. 11, line 25). She told her husband, and he turned around and drove back to the sister's house. (R. p. 7, line 23 – p. 8, line 1). When they pulled into the half-circle drive in the front of the house, the car was still backed up to the back porch. (R. p. 8, lines 2-5; p. 10, line 2 – p. 11, line 8; State's Exhibit 3.) The front wooden door was open<sup>2</sup>, the inside lights were on, and Mrs. Webber could see a man with bulging pants – backlit by the lights – walking down the hallway toward the front door. Because of the lighting, she could not make out any details about the man other than he was a male, and his pockets were bulging as if they were stuffed with things. (R. p. 8, lines 5-6; p. 9, lines 5 – p. 10, line 1; States's Exhibit 1 and 2.) When the man saw them, he turned around and walked back toward the back of the house. (R. p. 8, lines 7-8.) Soon after that, the car that had been backed up to the back porch pulled out of the side driveway onto Parris Bridge Road. The car – that looked like a burgundy Blazer SUV, with a patch over the back passenger window that looked like a trash bag covering the winder – stopped by the Webber's vehicle. The window rolled down and the woman inside told Mrs. Webber that that "they" were having car trouble. (R. p. 10, lines 15-18; p. 12, lines 1-8; p. 19, line 21 – p. 20, line 6; p. 23, line 11 – p. 24, line 1.) When Mrs. Webber asked why the man was in the house, the woman replied, "I don't know. That's on him." (R. p. 12, lines 9-11; p. 24, lines

---

<sup>1</sup> Mrs. Webber described the car as "burgundy, like a Blazer SUV...[with] a patch on the back window like a trash bag covering the back window." (R. p. 12, lines 16-18.) She was unable to get the car's tag. (R. p. 12, lines 15-16.)

<sup>2</sup> With the front wooden door open, apparently only the glass door separated the hallway from the outside. Mrs. Webber testified that that was an indication that something was wrong because her sister did not leave the door open because the roommate's dog could open the glass door. (R. p. 8, lines 22-25.)

1-3.) Mrs. Webber then said, "Tell him to get out. Get out now." (R. p. 12, line 12; p. 24, line 4.) The woman drove off. Mrs. Webber was unable to get the license plate number because of her state of panic. (R. p. 12, lines 13-14; p. 24, lines 5-21.)

Mrs. Webber called 911 after the women left in the car because she knew something was happening, they were worried about the roommate's dog (which was like a member of the family<sup>3</sup>), they were not armed, and they did not know if the man was armed, Mrs. Webber then called 911. (R. p. 11, lines 9-14; p. 12, lines 1-3; p. 12, line 19- p. 13, line 1.) When asked why she did not provide the 911 operator with a description of the man, although asked twice, Mrs. Webber testified she was very panicked and could not remember what she told the responding officers because she was very panicked. (R. p. 13, line 12 – p. 14, line 1; p. 17, line 22 – p. 18, line 2.)

Like I said, I was very panicky. This has set me on edge. My worse fear is to come home and somebody be in my house. To think that my sister or her roommate could've come home and that man been her house, it shook me. I don't know what I told them at that time.

(R. p. 14, lines 2-6.)

I can only say that I was very panicked when I was talking to the 911 operator. As things started to calm down, I could recollect what I saw.

(R. p. 86, lines 14-16.) She was not able to provide a description of the man's clothing. (R. p. 15, lines 19-21.) Later, when she gave her written statement, Mrs. Webber described the man as a black man, but was unable to provide a further description of him or his clothing because he was backlit. (R. p. 13, lines 20-23; p. 17, lines 18-21; p. 18, lines 3-6.)

During the 911 call, Mrs. Webber also told the operator about the woman in the car – that she was black, that she was in a burgundy Chevy Trailblazer, and that the car had left and was

---

<sup>3</sup> Mrs. Webber's family was able to recover the dog, which eventually showed up in the yard. (R. p. 13, lines 2-4.)

headed toward Spartanburg. (R. p. 14, lines 7-18; State's Exhibit 4.) At the time she made the 911 call, Mrs. Webber believed that the man was still in the house because she had not seen him leave. (R. p. 14, lines 16-19.) While Mrs. Webber was on the phone with the 911 operator, her husband called her father to have him come with a gun. Mrs. Webber and her husband stayed in their vehicle with their children until her father arrived, which was within four to five minutes of Mr. Webber calling him. Mr. Webber and his father-in-law then guarded the house so they would know if the man came out of it. (R. p. 14, line 20 – p. 15, line 5; p. 24, line 22 – p. 25, line 4.) Law enforcement responded quickly, arriving about eight minutes of Mrs. Webber placing her call to 911, and Mrs. Webber ended her call with the 911 operator upon their arrival. (R. p. 16, lines 4-12.) The man was not in the house when it was searched, and Mrs. Webber said she guessed he left in the four or five minutes before her father arrived. (R. p. 15, lines 6-11.) There were no other cars around so the person would have had to have left on foot, and there is nothing behind the house but trees, briars, and blackberries. (R. p. 15, lines 12-18.)

Mrs. Webber testified that she could not identify Appellant as the man she saw in the house. She said that other than learning that the officers had a suspect and that he had her dead uncle's wallet on him, she was not given any other information about the suspect. She did not know if Appellant was brought to the house that night, but he was never shown to her. (R. p. 15, line 22 – p. 16, line 3; p. 16, line 20 – p. 17, line 2; p. 26, lines 4-16.)

Deputy Joshua Chrobak also testified during the suppression hearing. At the time of the trial, he had been a uniform patrol deputy with the Spartanburg County Sheriff's Office for a little over three years. (R. p. 27, line 17 – p. 28, line 7; p. 48, lines 14-21.) On October 5, 2021, he had been working in the northeast area of the County for approximately 10 months and was extremely familiar with the area because he grew up in Fingerville and attended what was called,

in October 2021, the View Baptist Church. (R. p. 28, line 14 – p. 29, line 11; p. 48, line 22 – p. 49, line 3.) He described the area of the burglarized house as not a highly populated area: most of the houses in the area have farm property or very big fields between them; just a church down the road, and maybe one neighborhood about a mile and a half down the road. (R. p. 29, line 12 – p. 30, line 21; State’s Exhibit 5.) There are no sidewalks or streetlights. The nearest restaurant is probably five miles away, and the closest gas station is three miles away. (R. p. 31, lines 4-11; p. 48, lines 3-4; p. 59, lines 2-4.)

After nightfall on the night of October 5, 2021, Deputy Chrobak responded to a call for a breaking and entering in progress. (R. p. 31, lines 11-22.) While en route, a deputy on the scene radioed him that they saw a black man wearing all black walking on Parris Bridge Road, approximately 200 yards from the scene away from the scene toward Spartanburg. Deputy Chrobak was told to stop and talk to that person. (R. p. 31, line 23 – p. 33, line 19; p. 49, line 16 – p. 50, line 15; p. 55, lines 9-15.) When he saw a man matching the description and walking in the direction he had been told, Deputy Chrobak activated his blue lights, pulled over to the side, and got out of his patrol car. (R. p. 33, line 20 – p. 34, line 6; p. 46, line 8 – p. 47, line 1.) It was then approximately 10-12 minutes from the time the call was received. (R. p. 48, lines 5-7.) The man, Appellant, was wearing black pants, black jacket, a white t-shirt, and a hat. (R. p. 50, lines 20-24.) Appellant was immediately hostile and said he did not do anything wrong. Deputy Chrobak responded a burglary had been committed down the road, and he wanted to check to see if Appellant had anything to do with it. (R. p. 34, lines 6-16.) Deputy Chrobak thought it was suspicious that Appellant did not have a flashlight or anything else to use when walking a great distance and, before the Deputy said anything, Appellant blurted out that he had not done anything wrong. (R. p. 35, line 1-3; p. 37, lines 13-22.) Appellant also repeatedly asked Deputy

Chrobak to call his girlfriend. (R. p. 47, lines 16-18.)

The footage from Deputy Chrobak's body-worn camera, marked as State's Exhibit 6, was played.<sup>4</sup> (R. p. 37, line 10.) It starts when the Deputy is out of his car and approaching Appellant, who is on foot on the side of a two-lane road. It is a dark night, with no buildings or streetlights in sight (maybe a light post on somebody's property further down the road); while there is some vehicular traffic, no other pedestrians are visible. It does not appear as if there is a sidewalk on the side of the road on which they are stopped. Deputy Chrobak approaches and, explaining that there was a burglary just down the road. Appellant responds that he was just trying to call his girl and that she had just dropped him off. The Deputy asks to pat Appellant down for his safety. Appellant's response is unintelligible. Deputy Chrobak pats him down for weapons. Deputy Chrobak then asks if he can search Appellant's pockets. Appellant's response is unintelligible, but the Deputy does not search him. Appellant tells Deputy Chrobak that he already dug in his pocket, and the Deputy responds that the sunglass case was falling. Deputy Chrobak then asks Appellant for his name and date of birth. Then, about two minutes into the stop, the Deputy gets back in his patrol car to apparently run Appellant's name. Slightly over a minute later, he asks Appellant to verify that he is on probation. Appellant does, and Deputy Chrobak then says that he going to go ahead and search Appellant's pockets. Approximately four minutes into the encounter, he looked into one jacket pocket and finds a wallet, the contents of which reveal that it is Appellant's wallet; he returns it to the pocket. Deputy Chrobak then looks in the other jacket pocket and discovers a wallet in a sealed baggy and a remote control (which was the object he previously thought, during the pat-down, was a sunglass case that was falling out of the pocket

---

<sup>4</sup> The court reporter did not transcribe the audio portion of the body-worn camera footage when played in court so the summary included herein is based on notes taken by counsel for Respondent while watching and listening to the footage. The audio on the camera footage is not easy to understand. For example, it is not clear at one point if Deputy Chrobak was being told that the "Douglas Wall" name matched a male or mail at the house.

and he pushed it back in). He removes both items and leaves them out. He also finds a \$5.00 bill, which he puts back in the pocket. Deputy Chrobak gets in his patrol car with the wallet, opens it, and sees that it contains a social security card, driver's license, and other items with the name of another person with the last name "Douglas Wall." He radios for information on the name of the owner of the home that was burglarized; dispatch tells him that it is Kari Wall. At that point, slightly less than nine minutes into the encounter, Deputy Chrobak places handcuffs on Appellant and takes him into custody. He explains that he is being detained because the wallet belongs to the owner of the house that was burglarized. Someone radios the Deputy and asks what Appellant is wearing; Deputy Chrobak responds he is wearing an all-black jumpsuit. Someone radios the Deputy a short time later to say that the Wall name matches a male at the house. Deputy Chrobak then reads Appellant his Miranda rights; it does not appear that Appellant acknowledged the rights. And, while not saying that he was waiving his rights, he told the Deputy he did not do anything. He then asked the Deputy to call his girl, Camechia Mitchell, and that she just dropped him off.

After the video was stopped, Deputy Chrobak continued his testimony. He was questioned about his reasons for stopping Appellant. He said he had been told by a deputy at the scene that somebody was seen relatively close to but walking away from the scene, there is not a lot of foot traffic in the area, and Appellant matched the general description he was given. And his suspicion increased once he stopped Appellant because he spontaneously volunteered that he had not done anything, he was far from his home address, and, despite Appellant's assertion that his girlfriend had dropped him off, the Deputy was skeptical that someone would randomly drop a person off on the side of the road in that area. (R. p. 37, line 20 – p. 38, line 12; p. 52, lines 11-20; p. 54, lines 4-12; p. 55, line 20 – p. 56, line 3; p. 58, lines 5-9.) He then did a *Terry* frisk for

weapons because of his knowledge or experience that most burglaries are committed with weapons, burglary tools or other. (R. p. 38, line 13 – p. 39, line 25.) He believed he had reasonable suspicion, and his belief continued to grow. During the frisk, Deputy Chrobak almost knocked what he thought was a sunglass case out of one of the jacket pockets, but he pushed it back in. The *Terry* frisk did not reveal any weapons. (R. p. 40, lines 1-10.) Deputy Chrobak asked Appellant if he could search his pockets, but Appellant did not give consent. (R. p. 40, lines 11-12.) Continuing his investigation, he learned that Appellant’s address in the Spillman System and law enforcement Spillman System was on Cemetery Street, which is in the city rather than near where he and Appellant were. Deputy Chrobak thought that was suspicious. (R. p. 40, lines 13-25.)

More of the body-worn camera footage was played and the disc marked as State’s Exhibit 6 was entered into evidence. (R. p. 41, lines 2 – p. 42, line 10.) Deputy Chrobak testified he thought it was unusual for Appellant, who does not live anywhere near where he was stopped to be in the area, which the Deputy described as “kind of the middle of nowhere when it comes to foot traffic.” (R. p. 42, lines 20-23.) While he said his girlfriend dropped him off, Appellant did not provide any explanation for why he was in that area. (R. p. 42, line 24 – p. 43, line 2.) Deputy Chrobak also said that he received a notification that Appellant was on probation for petit larceny and burglary and confirmed it with Appellant. Appellant’s probationary status factored into his determination of suspiciousness. (R. p. 43, lines 3-15.)

Deputy Chrobak testified that he stopped Appellant near the intersection of Parris Bridge and Horton Roads, which is approximately .2 miles – or about a four-minute walk – from the burglarized home. (R. p. 44, line 14 – p. 46, line 13; State’s Exhibit 7.)

The Deputy testified he found a TV remote and a wallet belonging to a member of the

homeowner's family a one of Appellant's jacket pockets. The remote was what he thought was sunglass case when he frisked Appellant. (R. p. 47, line 19 – p. 48, line 1.)

At the conclusion of the suppression hearing, Appellant argued that “the stop should be suppressed” (R. p. 60, line 24) because all the officer said was that he was looking for someone another officer told him about and people do not walk in that area, which is insufficient for reasonable suspicion. (R. p. 60, line 24 – p. 61, line 4.) For the same reason, Appellant argued the subsequent probation search was suspect because S.C. Code Section 24-21-410 requires reasonable suspicion. (R. p. 61, lines 5-11.) The State contended that the searches were supported by reasonable suspicion, looking at the totality of the circumstances rather than at each factor separately: the fact that a burglary had just occurred, the fact that Appellant was walking in an area without streetlights or a lot of foot traffic, the rural nature of the area where he was walking, the closeness to the time of the crime, his clothing, and his proximity to the crime scene. These circumstances support a determination of reasonable suspicion to believe Appellant could have been involved in the burglary. Thereafter, more information was gathered that made the Deputy more suspicious, such as the story about Appellant's girlfriend dropping him off (where there is nothing at which he can be dropped off), the fact that Appellant lives in the city, and the fact that he was on probation for burglary. This additional information provided more support for the subsequent probationer search of Appellant, which disclosed the remote control and wallet taken from the crime scene. (R. p. 61, line 21 – p. 65, line 21.) The trial court denied the motion to suppress.

I have heard the pretrial motions. And with regard to the motion to suppress the items of the wallet and remote, I am denying that motion. I believe that the officer had a reasonable suspicion to make the stop and frisk.

(R. p. 68, lines 19-23.)

Thereafter, in the presence of the jury, the State presented the testimony of Jessica Webber and Deputy Chrobak, which was substantially similar to that presented during the suppression hearing. (R. p. 75, line 11 – p. 91, line 8; p. 168, line 16 – p. 189, line 18.) Both State’s Exhibit 4 (the 911 call) and 6 (the body-worn camera recording) were played for the jury. (R. p. 81, line 19 – p. 82, line 14; p. 174, line 22 – p. 175, line 10.) Mrs. Webber did testify that her father showed up about five-six minutes into her call with the 911 operator, and the Sheriff’s Office arrived approximately seven to eight minutes into her call with 911 services.<sup>5</sup> (R. p. 82, line 24 – p. 83, line 7.)

After the State rested its case, Appellant moved for a directed verdict and renewed all previous motions. The trial court denied the directed verdict motion but did not address the others. (R. p. 192, line 5 – p. 193, line 3.) At the conclusion of the defense’s case, during which Appellant presented the testimony of Sergeant Kimberly Blanton, who identified the clothing received from Appellant when he was booked into the jail. (R. p. 200, line 1 – p. 203, line 5.) Appellant then rested his case, moved for a directed verdict, and renewed all of his prior motions. (R. p. 204, lines 6-8.) The trial court again denied the directed verdict motion. (R. p. 204, lines 12-16.)

### Argument

The United States and South Carolina constitutions do not prohibit searches and seizures – just unreasonable searches and seizures. U.S. Const. amend IV; S.C. Const. art. I, § 10. *See also, e.g., Illinois v. McArthur*, 531 U.S. 326 (2001). “Reasonableness, in turn, is measured in

---

<sup>5</sup> Additional witnesses testified, but none of them provided information to members of the Sheriff’s Office that evening that was relayed to Deputy Chrobak. Kari Wall, the owner of the house and Mrs. Webber’s sister, did testify that her niece called her and told her she should go to the house because someone was in it. She then drove over with her boyfriend from his house, which was about a 15-minute ride away. (R. p. 117, line 18 – p. 118, line 3.) Near the end of State’s Exhibit 6 (body-worn camera recording), Deputy Chrobak is told by the person at the other end of the radio that the homeowner would be at the house in five minutes.

objective terms by examining the totality of the circumstances.” *Ohio v. Robinette*, 519 U.S. 33, 38. (1996). A search conducted pursuant to a valid search warrant is constitutionally reasonable. Searches conducted without a warrant are presumptively unreasonable and, thus, invalid unless the search falls within one of the recognized exceptions to the warrant requirement. *See, e.g., Flippo v. West Virginia*, 528 U.S. 11 (1999); *State v. Bultron*, 318 S.C. 323, 457 S.E.2d 616 (1995). The burden of establishing the existence of circumstances constituting an exception to the warrant requirement rests upon the prosecution. *Id.*

One of the long-recognized exceptions to the warrant requirement is an investigative stop and seizure. Law enforcement may stop and briefly detain and question a person, without violating the person’s Fourth Amendment rights, upon a reasonable suspicion supported by articulable facts that the person is involved in criminal activity. *State v. Rodriquez*, 323 S.C. 484, 492, 476 S.E.2d 161, 166 (Ct. App. 1996). *See also Robinson v. State*, 407 S.C. 169, 754 S.E.2d 862 (2014); *State v. Robinson*, 396 S.C. 577, 722 S.E.2d 820 (Ct. App. 2012); *State v. Burgess*, 394 S.C. 407, 714 S.E.2d 917 (Ct. App. 2011).

While reasonable suspicion is not a high bar and “is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence, the Fourth Amendment requires at least a minimal level of objective justification for making the stop.” This inquiry involves the totality of the circumstances, and “[c]ourts must give due weight to common sense judgments reached by officers in light of their experience and training.

(Citations omitted.). *State v. Frasier*, 437 S.C. 625, 635, 879 S.E.2d 762, 767 (2022). *See also Robinson v. State*, 407 S.C. at 182, 754 S.E.2d at 868-869 (2014).

The reasonableness of an “on-the-scene” warrantless seizure depends on the balance between the public interest and the individual’s right to personal security free from arbitrary interference by law officers. The applicable balancing test employs judicial review of all of the circumstances including but not limited

to: (1) the seriousness of the offense; (2) the degree of likelihood that the person detained may have witnessed or been involved in the offense; (3) the proximity in time and space from the scene of the crime; (4) the urgency of the occasion; (5) the nature of the detention and its extent; (6) the means and procedures employed by the officer; and (7) the presence of any circumstances suggesting harassment or a deliberate effort to avoid the necessity of securing a warrant.

(Citations omitted.) *State v. Rodriquez*, 323 S.C. at 493, 476 S.E.2d at 166. *See also State v. Frazier*, 394 S.C. 213, 715 S.E.2d 650 (Ct. App. 2011). A decision to make an investigatory stop or frisk need not be based on an officer's personal knowledge or suspicion of criminal activity. A law enforcement officer may make an investigatory stop based on information relayed by another department or officer provided the information relayed objectively provides reasonable articulable suspicion of criminal activity. *U.S. v. Hensley*, 469 U.S. 221 (1985). If a police officer makes an investigatory stop based upon reasonable articulable suspicion and his/her suspicions are either confirmed or further aroused, the stop may be prolonged, and the scope enlarged. *State v. Corley, supra*.

This case involves first degree burglary, which is a serious offense as it is a felony and classified as a violent offense. Inasmuch as Appellant was first seen 200 yards from the burglarized home walking away from it and toward Spartanburg, he was walking in the dark night down a road upon which there are no sidewalks, no streetlights, and very little foot traffic, and he was stopped .2 mile from the home within approximately 15 minutes from when the call was made to 911, it is more likely than not that he may have witnessed or been involved in the offense. Deputy Chrobak detained Appellant at the side of the road in the public view, but no intimidation or threats were used. The time stamp on the body-worn camera video establishes that just over three minutes into the detention, Deputy Chrobak learned that Appellant was on probation and searched his pockets based on the reasonable suspicion he has, which, since the

initial stop, has increased due to Appellant's claim that he was walking from where his girlfriend dropped him off and the Deputy learning that he did not live in the area, but in Spartanburg. While individually, these circumstances may be justified by innocent explanations, along with the other circumstances, they warranted further investigation to determine whether Appellant had engaged in criminal conduct. The totality of the circumstances – Appellant's spatial and temporal proximity to the recent burglary, his attire, his walking in the dark in an unlit rural area not known for foot traffic – supported a reasonable suspicion upon which to stop and detain Appellant as the possible burglar. *State v. Frazier, supra; State v. Rodriguez, supra; State v. Burgess, supra. See also United States v. Arvizu, 534 U.S. 266 (2002).*

## CONCLUSION

For the foregoing reasons and any other appearing in the Record on Appeal (as provided for in Rule 220, SCACR), the judgment and conviction of the lower court should be affirmed.<sup>6</sup>

Respectfully submitted,

ALAN WILSON  
Attorney General

AMIE L. CLIFFORD  
Special Assistant Attorney General  
[aclifford@cpc.sc.gov](mailto:aclifford@cpc.sc.gov)

Post Office Box 11549  
Columbia, South Carolina  
29211 (803) 734-3727

BARRY J. BARNETTE  
Solicitor, Seventh Judicial Circuit

Spartanburg County  
Courthouse 180 Magnolia St.  
Spartanburg, South Carolina  
29306 (864) 596-2575

BY: 

Amie L. Clifford  
Bar No. 1285

ATTORNEYS FOR RESPONDENT

July 18, 2024  
Columbia, South Carolina

---

<sup>6</sup> In his brief, Appellant attempts to expand the issue on appeal to cover more than just the investigative stop, *i.e.*, the frisk and the probation search. However, the second to the last sentencing in his brief (on page 9) is the only place he mentions these. The issue on appeal, as he framed it, only covers the stop. Therefore, those issues are not properly before this court. See Rule 208(b)(1)(D), SCACR.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

**RECEIVED**

**Jul 18 2024**

**SC Court of Appeals**

APPEAL FROM SPARTANBURG COUNTY

Court of General Sessions  
The Honorable Grace Gilchrist Knie, Circuit Court Judge

Court of Appeals Case No. 2023-000511

The State,

Respondent,

v.

Keith Vincent Brown,

Appellant.

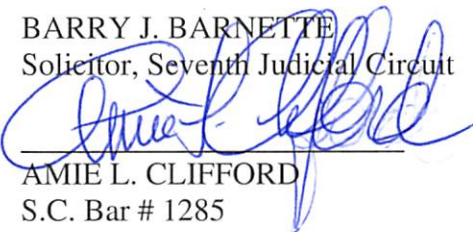
Certification of Counsel

The undersigned certifies this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

ALAN WILSON  
Attorney General

AMIE L. CLIFFORD  
Special Assistant Attorney General

BARRY J. BARNETTE  
Solicitor, Seventh Judicial Circuit

  
AMIE L. CLIFFORD  
S.C. Bar # 1285

ATTORNEYS FOR RESPONDENT

July 18, 2024

**RECEIVED**

**Jul 18 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

---

APPEAL FROM SPARTANBURG COUNTY

Court of General Sessions  
The Honorable Grace Gilchrist Knie, Circuit Court Judge

---

Court of Appeals Case No. 2023-000511

---

The State,

Respondent,

v.

Keith Vincent Brown,

Appellant.

---

Proof of Service

---

I, Grace Sommer, certify that I have served the within Final Brief of Respondent on Sarah E. Shipe, Esquire, counsel of record for the Appellant by electronic mail to the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served.  
This 18<sup>th</sup> day of July, 2024.



Grace Sommer  
Legal Assistant

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3835

## Grace Sommer

---

**From:** Grace Sommer  
**Sent:** Thursday, July 18, 2024 3:20 PM  
**To:** sshipe@sccid.sc.gov  
**Cc:** Clifford, Amie; Mcinnis, Sara  
**Subject:** The State v. Keith Vincent Brown (2023-000511)  
**Attachments:** BROWN Keith - FBOR (03638370xD2C78).PDF; BROWN Keith - Motion to File Amended Designation of Matter and Issuance of Exhibit Transportation Order (03638358xD2C78).PDF; BROWN Keith - Amended Designation of Matter (03638373xD2C78).PDF

Good Afternoon Ms. Shipe,

Attached please find a Final Brief of Respondent, a Motion to Amend the Designation of Matter and Issuance of Exhibit Transportation Order, and the Amended Designation of Matter in The State v. Keith Vincent Brown (2023-000511). These documents will be filed today with the Court of Appeals via the AIS OneDrive System.

If you will, please confirm receipt of this email.

Thank you,

**Grace Sommer**, Legal Assistant  
South Carolina Attorney General's Office  
Criminal Appeals | Office 803-734-3835 | [gracesommer@scag.gov](mailto:gracesommer@scag.gov)  
P.O. Box 11549 | Columbia, SC 29211  
[scag.gov](http://scag.gov)



*This email, together with any attachments, may be legally privileged. If you have received it in error, please notify the sender immediately, and then delete it from your system. This email and any replies to this email may be subject to disclosure under the Freedom of Information Act.*