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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Brooks P. Goldsmith and Carmen T. Mullen, Circuit Court Judges
Appellate Case No. 2023-000846

THE STATE,

Respondent,

vs.

JAKAVIS GREEN,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

"Did the trial court err in refusing to dismiss the traffic related charges because of the standardless sweep allowed by S.C. Code Ann. § 56-5-2120 (1993) which is an unconstitutionally vague statute that provides contradictory guidance to both the public and the police on which is the lawful lane of travel to turn into while making a left-hand turn?"

COUNTER-STATEMENT OF ISSUE ON APPEAL

Did the trial judge somehow err by denying Appellant's motion to suppress all the evidence found during the course of the traffic stop when the deputy's belief Appellant committed a traffic offense by making a left turn into the far right-hand lane instead of the available left-hand lane of the roadway being entered was either a correct interpretation of South Carolina law or an objectively reasonable one and, therefore, the stop was supported by reasonable suspicion and constitutionally proper?

STATEMENT OF THE CASE

In May of 2018, Appellant Jakavis Green, a serial offender, was arrested after a routine traffic stop of a rental vehicle he was driving led to the discovery of a number of criminal offenses he had committed.[1] In August of 2018, the Beaufort County Grand Jury indicted Appellant for third-offense-or-greater driving under suspension and a habitual traffic offender violation. On July 25, 2022, a jury trial was commenced in the Beaufort County Court of General Sessions with the Honorable Brooks P. Goldsmith, circuit court judge, presiding. Although initially present for the start of trial, Appellant absconded after a lunch recess, and the trial proceeded forward in his absence. At the conclusion of the single-day trial, the jury convicted Appellant as indicted. Following the verdict, Judge Goldsmith sentenced Appellant and sealed the sentence. Subsequently, Appellant was apprehended, and, on May 19, 2023, a sentencing hearing was conducted in the Beaufort County Court of General Sessions with the Honorable Carmen T. Mullen, circuit court judge, presiding. During the hearing, Judge Mullen unsealed Appellant's sentence and imposed concurrent terms of imprisonment of four years for the habitual traffic offender violation and ninety days for driving under suspension. Appellant then timely filed a notice of appeal.

[1] Appellant's extensive criminal record spanned multiple states and included convictions for driving under the influence, driving under suspension, possession of cocaine with intent to distribute, possession of marijuana, and strong-arm robbery amongst other offenses. (R. pp. 75-76).

STATEMENT OF FACTS

Around 11:30 p.m. on the night of May 13, 2018, Sergeant Justin Greninger of the Beaufort County Sheriff's Office was on patrol on Hilton Head Island when he observed the driver of a Hyundai Accent make a left turn from Arrow Road onto Palmetto Bay Road. (R. pp. 38-39; p. 44; p. 109). Although Palmetto Bay Road was divided into two lanes of travel in the direction in which the Accent's driver was headed, the driver crossed over the closest of the two lanes—the lane directly left of center—and bypassed it for Palmetto Bay Road's far right-hand lane. (R. p. 39; p. 106). Recognizing that as a violation of South Carolina's traffic laws, Sergeant Greninger followed the Accent and initiated a traffic stop for an improper left turn. (R. pp. 39-40; p. 106).

After stopping the vehicle, Sergeant Greninger approached and made contact with Appellant, its driver and sole occupant. (R. p. 40; p. 106). The deputy—who immediately detected an odor of marijuana emanating from the vehicle—proceeded to quickly explain the basis for the stop and request Appellant's license, registration, and insurance information. (R. p. 41; p. 106). In response, Appellant indicated he did not have his license with him, explained the car was a rental vehicle, and revealed he did not have any rental paperwork for it. (R. p. 106). However, Appellant did provide his name and date of birth to the deputy. (R. p. 106).

Upon obtaining what he could from Appellant, Sergeant Greninger contacted dispatch to verify the limited information provided. (R. pp. 41-42; p. 106). By doing so, he discovered Appellant did not have a valid driver's license, which had been suspended, *and* there was an outstanding warrant for Appellant's arrest that had been issued in Georgia. (R. p. 106). In light of that, Sergeant Greninger swiftly arrested Appellant. (R. p. 42; pp. 106-107).

Following Appellant's arrest, Sergeant Greninger proceeded to conduct a search of the rental vehicle. (R. p. 106). Inside, he found $409 in cash, roughly two grams of a substance that field-tested positive for cocaine, and some suspected marijuana. (R. p. 106). Based on that, the deputy arrested Appellant for several drug charges, too. (R. p. 107).

Subsequently, Appellant, who had been designated as a habitual traffic offender in April of 2014, was indicted for driving under suspension and a habitual traffic offender violation, and he proceeded forward to trial on those two charges.[2] (R. p. 3; p. 49; pp. 86-87). At the conclusion of his swift trial, the jury unanimously convicted Appellant as indicted after less than an hour of deliberations.[3] (R. p. 68; pp. 72-73).

[2] By the time of trial, Sergeant Greninger was working as an officer for the Flushing Township Police Department in Michigan. (R. p. 38).

[3] Based on the charges for which Appellant was tried, no testimony or evidence was presented to the jury concerning the drugs found in the rental vehicle or Appellant's outstanding arrest warrant from Georgia. (R. pp. 38-51).

ARGUMENT

The trial judge correctly denied Appellant's motion to suppress all the evidence found during the course of the traffic stop because the deputy's belief Appellant committed a traffic offense by making a left turn into the far right-hand lane instead of the available left-hand lane of the roadway being entered was either a correct interpretation of South Carolina law or an objectively reasonable one and, therefore, the stop was supported by reasonable suspicion and constitutionally proper.

Relevant Facts

Prior to and at the outset of trial, defense counsel moved to suppress all the evidence uncovered in Appellant's case on the basis the traffic stop purportedly constituted a constitutionally unreasonable seizure. (R. pp. 11-12; p. 94; pp. 98-99). As support for the motion, defense counsel contended Section 56-5-2120 of the South Carolina Code of Laws, which is the statutory provision the deputy believed Appellant had violated by the manner in which he made his left turn, was "just nonsensical" and did not in her view dictate any specific lane into which a driver making a left turn was required to turn. (R. p. 13; p. 99). Furthermore, defense counsel asserted practicability was also a factor that had to be considered if the trial judge did, in fact, believe the statute regulated proper lane usage when making a left turn. (R. pp. 13-14; p. 100). Based on all that, defense counsel argued Appellant did not violate any traffic laws on the night of the incident and, thus, there was supposedly no probable cause for the traffic stop, which she maintained was necessary for the stop to be constitutionally proper. (R. p. 14; p. 18; pp. 98-99).

Conversely, the solicitor noted Sergeant Greninger observed Appellant make a left turn into the far right-hand lane as opposed to the left-hand lane, which was closest lane lawfully available to him. (R. p. 15). Based on that, the solicitor argued the deputy had reasonable suspicion to believe a traffic violation had occurred, which justified the traffic stop in Appellant's case. (R. p. 15).

After listening to the arguments of counsel, the trial judge noted—correctly—the issue in Appellant's case was not whether he was guilty of an illegal turn but was whether reasonable suspicion existed for the traffic stop. (R. p. 19). Upon considering that matter, the trial judge ruled Section 56-5-2120 was not ambiguous and the deputy possessed reasonable suspicion for the traffic stop of Appellant's vehicle based on what he had observed. (R. p. 19). Resultantly, the trial judge denied defense counsel's suppression motion, and Appellant was ultimately convicted as indicted of driving under suspension and a habitual traffic offender violation. (R. p. 19; p. 73).

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). When reviewing a ruling on a constitutional search-and-seizure issue on appeal, the appellate court will "review the trial court's factual findings for any evidentiary support" and treat "the ultimate legal conclusion" as "a question of law subject to de novo review." State v. Frasier, 437 S.C. 625, 633, 879 S.E.2d 762, 766 (2022). Meanwhile, when reviewing a challenge to the constitutionality of a statute, an appellate court has a "very limited" scope of review. State v. Harrison, 402 S.C. 288, 292, 741 S.E.2d 727, 729 (2013). Pursuant to that limited scope of review, all statutes are presumed to be constitutional and, if possible, will be construed in such a way to render them valid. State v. Neuman, 384 S.C. 395, 402, 683 S.E.2d 268, 271 (2009); see Powell v. Hargrove, 136 S.C. 345, 350, 134 S.E. 380, 382 (1926) ("[An appellate court] must sustain the validity of the legislative enactment, if it is possible to do so by any reasonable construction of the Constitution, even though the Court might differ with the Legislature as to the propriety of the legislation."). Importantly, a statute "will not be declared unconstitutional unless its repugnance to the constitution is clear and

beyond a reasonable doubt[,]" and the party challenging the validity of the statute has the heavy burden of proving its unconstitutionality. In re Care & Treatment of Lasure, 379 S.C. 144, 147, 666 S.E.2d 228, 229 (2008); see State v. Jones, 344 S.C. 48, 58, 543 S.E.2d 541, 546 (2001) ("Appellants have the burden of proving the statute unconstitutional.").

Analysis

Both the Fourth Amendment of the United States Constitution and Article I, Section 10 of the South Carolina Constitution provide protection to our citizens against unreasonable searches and seizures. See U.S. Const. amend. IV ("The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]"); S.C. Const. art. I, § 10 ("The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated[.]"). Significantly, based on their plain wording, the touchstone of those constitutional provisions is reasonableness. Florida v. Jimeno, 500 U.S. 248, 250 (1991). As a result, *only* unreasonable searches and seizures are impermissible. State v. Foster, 269 S.C. 373, 378, 237 S.E.2d 589, 591 (1977); see also Heien v. North Carolina, 574 U.S. 54, 60 (2014) ("To be reasonable is not to be perfect[.]").

For constitutional purposes, a traffic stop of a vehicle is reasonable per se when either probable cause exists to believe a traffic violation has occurred *or* reasonable suspicion exists to believe the occupants of the vehicle are involved in criminal activity.[4] See Knight v. State, 284

[4] Unlike in some jurisdictions, traffic offenses in South Carolina constitute misdemeanor *criminal* offenses as opposed to civil traffic infractions. See S.C. Code Ann. § 56-5-730 ("It is unlawful and, unless otherwise declared in [the Uniform Act Regulating Traffic on Highways] with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or to fail to perform any act required in this chapter."); cf. Whren v. United States, 517 U.S. 806, 808 (1996) (explaining "the decision to stop an automobile is reasonable where the police have

S.C. 138, 141, 325 S.E.2d 535, 537 (1985) ("[A] police officer may stop an automobile and briefly detain its occupants, even without probable cause to arrest, if he has a reasonable suspicion that the occupants are involved in criminal activity."); State v. Williams, 351 S.C. 591, 598, 571 S.E.2d 703, 707 (Ct. App. 2002) ("Where probable cause exists to believe that a traffic violation has occurred, the decision to stop the automobile is reasonable per se."). Meanwhile, the subjective motivations of the law enforcement officer initiating the stop are irrelevant. State v. Moore, 415 S.C. 245, 252, 781 S.E.2d 897, 901 (2016); see State v. Provet, 405 S.C. 101, 108, 747 S.E.2d 453, 457 (2013) ("The test whether reasonable suspicion exists is an objective assessment of the circumstances; the officer's subjective motivations are irrelevant."); see also Horton v. California, 496 U.S. 128, 138 (1990) ("[E]venhanded law enforcement is best achieved by the application of objection standards of conduct, rather than standards that depend upon the subjective state of mind of the officer.").

As to what "reasonable articulable suspicion" has been recognized to mean, it is a flexible standard grounded in common sense and simply requires a showing of "a *minimal* level of objective justification" in order to be satisfied. Illinois v. Wardlow, 528 U.S. 119, 123 (2000) (emphasis added); see State v. Lesley, 326 S.C. 641, 644, 486 S.E.2d 276, 277 (Ct. App. 1997) ("The term reasonable suspicion requires a particularized and objective basis that would lead one to suspect another of criminal activity" (citation and internal quotations omitted)); see also Robinson v. State, 407 S.C. 169, 184, 754 S.E.2d 862, 870 (2014) ("[T]he facts and inferences relied on by the officer must be articul*able*, not necessarily articulat*ed*."). Significantly, it "is not a high bar." United States v. Coker, 648 F. App'x 541, 544 (6th Cir. 2016) (citing Navarette v. California, 572 U.S. 393 (2014)); see Kaley v. United States, 571 U.S. 320, 338 (2014)

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probable cause to believe that a traffic violation has occurred" in a case in which the traffic violations involved were not crimes but, instead, were merely civil violations).

(recognizing even the probable cause standard "is not a high bar"). In fact, due to the nature of that standard, reasonable suspicion can exist even when an officer makes a *reasonable* mistake of fact or law. See Heien, 574 U.S. at 60 (holding reasonable suspicion for a seizure "can rest on a mistaken understanding of the scope of a legal prohibition"); Illinois v. Rodriguez, 497 U.S. 177, 185 (1990) ("It is apparent that in order to satisfy the 'reasonableness' requirement of the Fourth Amendment, what is generally demanded of the many factual determinations that must regularly be made by agents of the government . . . is not that they always be correct, but that they always be reasonable."); see also Brinegar v. United States, 338 U.S. 160, 176 (1949) ("Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable men[.]").

In the case sub judice, Sergeant Greninger initiated the traffic stop that led to Appellant's arrest and subsequent convictions based on his belief the left turn he observed Appellant make was unlawful pursuant to the language of Section 56-5-2120, which is our state's traffic law governing "[r]equired position and method of turning." S.C. Code Ann. § 56-5-2120. As to left turns, that statutory provision instructs:

> The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as the vehicle on the roadway being entered.

Id. Notably, although *other* portions of its language have been interpreted in the past, no South Carolina appellate court decision has yet been issued specifically addressing the meaning of the statute's current language concerning how left turns must be made. Cf. Muhleck v. Tamanini,

271 S.C. 57, 60, 244 S.E.2d 535, 537 (1978) ("The testimony of the investigating highway patrolman regarding skidmarks made by appellant's motorcycle coupled with the location of the vehicles after the wreck creates an inference that instead of making a 90 degree left hand turn as required by [an older slightly-different version of Section 56-5-2120], respondent 'cut the corner.' "); West v. Sowell, 237 S.C. 641, 647, 118 S.E.2d 692, 695 (1961) (concluding the language of a precursor to Section 56-5-2120 made it unlawful to fail "to approach an intersection for a right turn as close as practical to the right hand edge of the roadway").

Now, on appeal, Appellant—while heavily focusing on the supposed unconstitutionality of Section 56-5-2120, which he was *not* convicted of violating—contends the trial judge reversibly erred by failing to both suppress the evidence discovered as a result of the traffic stop conducted in his case and dismiss his charges. More specifically, Appellant maintains his federal constitutional rights were violated by the stop because Section 56-5-2120 was purportedly nonsensical and unconstitutionally vague. Importantly though, Appellant correctly concedes no decisions have yet been issued in South Carolina interpreting that particular statutory provision in the context of how left turns must be made in our state. Beyond that, Appellant further candidly "concede[s]" the deputy's interpretation of the statute "was potentially a valid interpretation" while merely contending a contrary interpretation would have been "equally *reasonable*." (App. Br. p. 6) (emphasis added). Nevertheless, since Section 56-5-2120 was—in his view—void due to its supposed unconstitutional vagueness, Appellant argues his constitutional rights were violated based on the stop conducted pursuant to it, all the evidence discovered as a result of that stop had to be suppressed, and his driving under suspension and habitual traffic offender violation charges had to be dismissed. For several reasons and particularly in light of his accurate concessions, Appellant is wrong.

Initially, Appellant's position is wrong because the deputy was, in fact, completely correct in believing Appellant violated Section 56-5-2120 by making a left turn into the far right-hand lane as opposed to the closer and available left-hand lane based on the language employed in that statutory provision. Looking to the statute's current language, it requires a driver turning left onto a South Carolina roadway to "leave"—or, phrased differently, exit—"the intersection or other location[,]" such as the yellow-lined center turn lanes present on *many* of our state's roadways, from which the left turn is being made "in the extreme left-hand lane" on the roadway being entered that is lawfully available to traffic moving in the driver's direction.[5] S.C. Code Ann. § 56-5-2120(b). Here, based on Sergeant Greninger's testimony, Appellant did *not* leave the intersection in the closest left-hand lane but, instead, bypassed that lane and drove into the far right-hand lane. Thus, based on the plain language of the statute, Appellant committed a traffic violation by making a left turn but failing to exit the intersection in the correct "extreme left-hand lane" of the roadway he was entering. Id.; see People v. Vaughn, 334 P.3d 226, 229 (Colo. 2014) (concluding Colorado's traffic code makes it a violation for a driver making a left turn to turn into the far right-hand lane instead of the closest left-hand lane and, thus, holding the officer possessed reasonable suspicion for a traffic stop after observing Vaughn commit a violation by conducting a left turn in just such a manner); State v. Rainier, 357 P.3d 867, 871 (Idaho Ct. App. 2015) ("The plain language of the statute, we determine, directs that a driver turn *from* the

[5] Notably, the manner in which Section 56-5-2120 was previously written supports a conclusion its language was and is intended to identify the lane that must be entered when *exiting* an intersection. See Muhleck, 271 S.C. at 60, 244 S.E.2d at 536-537 (quoting an earlier version of Section 56-5-2120 as follows: "At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered, and whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection[.]").

extreme left-hand lane *to* the extreme left-hand lane when practicable. Accordingly, the officer had reasonable, articulable suspicion pursuant to the statute that Rainier committed a traffic violation [by making a left turn into the far right-hand lane instead of the closest left-hand lane available], and the district court did not err by denying Rainier's motion to suppress on this ground."); see also Colo. Rev. Stat. Ann. § 42-4-901(1)(b) ("The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn shall be made to the left of the center of the intersection so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered."); Idaho Code Ann. § 49-644(2) ("The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction on the highway being entered."); cf. State v. Walker, 435 P.3d 1184, __ (Kan. Ct. App. 2019) (unpublished table decision) ("[Trooper] Hill's interpretation that the law requires a driver to 'to turn from the left to the left' comes from a different approach. Hill reads 'leave the intersection' to mean exit or depart from and takes 'in the extreme left-hand lane lawfully available to traffic moving the same direction as such vehicle' to mean '*into* the extreme left-hand lane *that is* lawfully available to traffic moving in the same direction as *the turning vehicle.*' "). And, since Appellant committed a traffic violation, the traffic stop was obviously supported by reasonable suspicion and, therefore, was constitutionally proper. See Provet, 405 S.C. at 108, 747 S.E.2d at 457

("Violation of motor vehicle codes provides an officer reasonable suspicion to initiate a traffic stop.").

It is important to note, though, that Appellant was *not* convicted of violating Section 56-5-2120. Instead, Appellant was convicted of driving under suspension along with a habitual traffic offender violation. See S.C. Code Ann. § 56-1-460 (prohibiting a person from driving on a public highway in South Carolina when the person's license has been suspended or revoked); S.C. Code Ann. § 56-1-1100 (prohibiting a person from operating a motor vehicle in South Carolina after being deemed a habitual traffic offender and "while the decision of the Department of Motor Vehicles prohibiting the operation is in effect"). That distinction is a significant one because the issue currently being raised centers on a challenge to the constitutional reasonableness of the seizure that occurred in Appellant's case and not to any particular offenses for which Appellant was—or was not—convicted. Compare Heien, 574 U.S. at 67 ("Heien is not appealing a brake-light ticket; he is appealing a cocaine-trafficking conviction as to which there is no asserted mistake of fact or law."), with McNair v. State, 678 S.E.2d 69, 69-70 (Ga. 2009) (addressing a constitutional challenge to a traffic statute on appeal following McNair's conviction for violating the challenged statute). And, as previously explained, a seizure can be constitutionally reasonable *even if* an officer was mistaken about whether particular conduct constitutes a violation of law so long as the officer's mistake was objectively reasonable. See Heien, 574 U.S. at 66 (instructing if it was reasonable for an officer to suspect a defendant's conduct was illegal, "there was no violation of the Fourth Amendment in the first place").

With that in mind, Section 56-5-2120's language is, at an absolute minimum, *arguably* susceptible to the statutory interpretation Sergeant Greninger gave to it, and that language has

never previously been construed in a contrary manner by a South Carolina appellate court. Cf. id. at 67 (concluding it was objectively reasonable for an officer to believe Heien violated a North Carolina law when the pertinent statute's language "arguably" supported the officer's interpretation and it had not previously been construed in a contrary manner by North Carolina's appellate courts). Therefore, even if Sergeant Greninger was somehow wrong and Section 56-5-5-2120 does not truly place any restrictions at all on the lane into which a left turn can lawfully be made in South Carolina, the deputy's belief Appellant's left turn constituted a traffic violation was—just as Appellant now appears to readily concede—an objectively *reasonable* interpretation of the statute's language, which was particularly true since others, including out-of-state appellate court judges, who have analyzed nearly-identical statutory language have reached precisely the same conclusion. S.C. Code Ann. § 56-5-2120; cf. Vaughn, 334 P.3d at 229 (interpreting a Colorado statute that was virtually identical to Section 56-5-2120 in precisely the same way as Sergeant Greninger interpreted South Carolina law); Rainier, 357 P.3d at 871 (interpreting an Idaho statute that was virtually identical to Section 56-5-2120 in precisely the same way as Sergeant Greninger interpreted South Carolina law). Under such circumstances, the traffic stop was supported by reasonable suspicion regardless of whether a traffic violation truly occurred, and Appellant's position to the contrary would remain wrong even if Sergeant Greninger's interpretation of Section 56-5-2120 was somehow incorrect or that statutory provision was somehow too vague or ambiguous to be valid. Cf. United States v. Marsh, 95 F.4th 464, 470 (6th Cir. 2024) ("The officers' mistake of law was objectively reasonable, so the traffic stop of Marsh's vehicle did not violate the Fourth Amendment.").

Accordingly, because the traffic stop in Appellant's case was constitutionally reasonable and proper under the circumstances involved regardless of whether the deputy was right or

wrong, the trial judge properly denied the suppression motion, and there are no legitimate grounds upon which that ruling could be disturbed on appeal.[6] See Heien, 574 U.S. at 61 (recognizing reasonable suspicion can arise from both a mistake of fact and a mistake of law so long as the mistake is objectively reasonable); cf. United States v. Scott, 693 F. App'x 835, 838 (11th Cir. 2017) ("In short, because the officer's reading of the statute was objectively reasonable and he made a valid traffic stop, the district court did not err in denying Scott's motion to suppress."). Appellant's convictions should be affirmed.

[6] Importantly, because suppression would not have been appropriate in Appellant's case regardless of whether Sergeant Greninger's interpretation of Section 56-5-2120 was correct, there is no need for this Court to address Appellant's vagueness challenge to that particular statutory provision, which, again, Appellant was *not* convicted of violating. See State v. Jones, 442 S.C. 678, 682, 901 S.E.2d 284, 286 (2024) (reiterating South Carolina courts follow a firm policy of not ruling on constitutional issues unless a ruling is *required*); In re Care & Treatment of McCracken, 346 S.C. 87, 92, 551 S.E.2d 235, 238 (2001) (declining to address a constitutional challenge to a legislative act when able not to do so based on the existence of the "firm policy to decline to rule on constitutional issues unless such a ruling is required"); cf. United States v. Cunningham, 630 F. App'x 873, 876 (10th Cir. 2015) ("We need not resolve the ultimate debate—whether turning from a motel parking lot onto a public street—is a violation of Colorado law. We need only decide whether the officers reasonably thought it was.").

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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September 17, 2024

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Brooks P. Goldsmith and Carmen T. Mullen, Circuit Court Judges
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THE STATE,

Respondent,

vs.

JAKAVIS GREEN,

Appellant.

PROOF OF SERVICE

I, Caroline Collins, certify I have served the within Final Brief of Respondent on Appellant by sending an electronic copy via email to the address listed in AIS for the following individual:

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I further certify all parties required by Rule to be served have been served.
This 17th day of September, 2024.

CAROLINE COLLINS
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Subject:	The State v. Jakavis Green (2023-000846)
Date:	Tuesday, September 17, 2024 11:46:00 AM
Attachments:	image001.png Green.FBOR.pdf

Good Afternoon Mr. Johnson,

Attached please find the Final Brief of Respondent in The State v. Jakavis Green (2023-000846). This will be submitted today to the South Carolina Court of Appeals via the AIS OneDrive System.

If you will, please confirm receipt of this email.

Thank you,

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