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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
The Honorable Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2023-000698

THE STATE,

Respondent,

v.

DERRICK GERARD BOYD,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE

Derrick Gerard Boyd ("Appellant") was indicted by a Dorchester County Grand Jury for Trafficking in Cocaine 10 grams or more but less than 28 grams, possession of contraband by a prisoner, and possession with intent to distribute marijuana. Appellant proceeded to trial before the Honorable Diane Goodstein and a jury on March 20-21, 2023. Grant Smaldone, Esq. represented Appellant at trial. Appellant was found not guilty for possession of contraband, but guilty on the trafficking and possession charges. Appellant was sentenced to twenty-five years' incarceration for the trafficking in Cocaine and five years for the possession with intent to distribute marijuana to run concurrently. A timely notice of appeal was filed.

This appeal follows.

STATEMENT OF FACTS

In the early morning hours of May 15, 2021, Ray Holder, with the Dorchester County Sheriff's Office, was on patrol when a vehicle passed by and, as it did, its passenger tried to conceal himself between the front and backseat. (Tr. 136-137). Holder began following the vehicle. (Tr. 137). When the vehicle approached a stop sign, the vehicle stopped past the white stop line, so Holder conducted a traffic stop. (Tr. 138). The driver exited the vehicle to talk with Holder. (Tr. 141). Holder told the driver he smelled marijuana. (Tr. 141). Holder then approached the passenger side of the car where Derrick Boyd, Appellant, was sitting. (Tr. 142). Holder testified that the smell became stronger when approaching the passenger side. (Tr. 142). Holder frisked the driver and Appellant based off of the smell of marijuana. (State's Exhibit 2). Holder asked numerous times if there was anything in the vehicle throughout the encounter. (State's Exhibit 2). As Holder was about to search the vehicle, Appellant told Holder that he had "2 ounces of weed" in the car and that it was in a blue bag under the driver's seat. (Tr. 144, State's Exhibit 2). Appellant admitted to Holder that he sold it. (State's Exhibit 2). There were plastic bags, a scale, marijuana and $1,614 found inside. (Tr. 147-149, State's Exhibit 2). Appellant was then arrested and transported to the detention center. (Tr. 149-150). During a strip search of Appellant at the detention center, 28 grams of cocaine was found. (Tr. 152).

ARGUMENT

1. The trial court properly denied Appellant's motion for a mistrial.

Appellant contends that the trial court erred in failing to grant his motion for a mistrial. Specifically, Appellant argues the trial court erred because during polling one of the jurors stated "I can't agree on one of them charges, I find him not guilty", and sending the jury back to deliberate after that statement was unduly coercive. Appellant's argument lacks merit and a mistrial was not warranted under the circumstances involved.

Relevant Facts

At the conclusion of the trial, the jury returned a verdict of guilty for trafficking in cocaine and possession with intent to distribute marijuana. (Tr. 304-305). The jury found Appellant not guilty of possession of contraband. (Tr. 304). Appellant requested individual polling of the jurors. (Tr. 305). During the first individual polling, the following exchange took place:

> The Court: Juror 3. Was this your verdict in the jury room?
> Juror Number 3: I can't agree on one of them charges.
> The Court: Can you repeat what you said? I'm Sorry.
> Juror Number 3: I can't agree on one of them charges. I find him not guilty.
> The Court: All right. Very well.

(Tr. 307). The Court stopped the polling and stated the following:

> All right. Obviously the juror—at this point here that they are not unanimous and, therefore, the – what I have been able to find—and let me just—I believe that the – it's discretionary with the Court whether to send them back out or declare a mistrial, and I am inclined to send them back out for deliberations for this reason.
>
> I do not—they have not deliberated for a particular—particularly long period and they've asked two questions which have been responded to, and I am inclined to send them out and to allow them to continue to deliberate. And it appears to me that that is provided for, and I can—I can find very quickly no statute and no current case law that provides otherwise.

(Tr. 307-308). The State agreed with the trial court's decision, however counsel for Appellant requested a mistrial, stating that it was akin to asking for an Allen charge. (Tr. 308-309).

The trial court denied Appellant's motion for a mistrial stating "I would feel differently if they had been deliberating for a very long time. They have not been deliberating for a very long time. And if she feels very strongly, she—she will continue in that vein, but I am concerned that the duration of the—their deliberation has been very short." (Tr. 309). The trial court then told the jury "Ladies and gentlemen, in that it appears from the polling that you have been unable to reach a unanimous verdict and given the relatively short period of time that you all have been deliberating, it is appropriate that I ask that you continue your deliberations." (Tr. 309). Seven minutes later, the jury came back with a unanimous verdict of guilty for the trafficking in cocaine and possession with intent to distribute marijuana and not guilty of possession of contraband. (Tr. 311-312).

Standard of Review

"In criminal cases an appellate court sits to review errors of law only." State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). "The decision to grant or deny a motion for a mistrial is a matter within a trial court's discretion, and such a decision will not be disturbed on appeal absent an abuse of discretion amounting to an error of law." State v. Council, 335 S.C. 1, 12, 515 S.E.2d 508, 514 (1999). "A mistrial should only be granted when 'absolutely necessary,' and a defendant must show both error and resulting prejudice in order to be entitled to a mistrial." State v. Stanley, 365 S.C. 24, 34, 615 S.E.2d 445, 460 (Ct. App. 2005). "Trial judges in South Carolina, as elsewhere, are allowed a wide discretion in the trial of cases. This is as it should be because a trial judge experiences 'a feel of the case' which oftentimes may not be detected from a cold printed record." State v. Perry, 278 S.C. 490, 494, 299 S.E.2d 324, 326 (1983).

Analysis

"[W]hether to grant or deny a mistrial is within the discretion of the trial court and will not be reversed on appeal absent an abuse of discretion." State v. Herring, 387 S.C. 201, 216, 692

S.E.2d 490, 498 (2009). Whether a mistrial is manifestly necessary is a fact specific inquiry. "It is not a mechanically applied standard, but rather is a determination that must be made in the context of the specific difficulty facing the trial judge." State v. Rowlands, 343 S.C. 454, 457-58, 539 S.E.2d 717, 719 (Ct. App. 2000) (citations omitted). This Court "favors the exercise of a **wise discretion of the circuit judge** in determining the merits of such motion in each individual case." State v. Craig, 267 S.C. 262, 269, 227 S.E.2d 306, 309 (1976) (emphasis added) (quoting State v. Singleton, 167 S.C. 543, 166 S.E. 725 (1932)). "Trial judges in South Carolina, as elsewhere, are allowed a wide discretion in the trial of cases. This is as it should be because a trial judge experiences 'a feel of the case' which oftentimes may not be detected from a cold printed record." State v. Perry, 278 S.C. 490, 494, 299 S.E.2d 324, 326 (1983).

"The power of the trial court to declare a mistrial should be used with the greatest caution under urgent circumstances and for very plain and obvious reasons stated on the record by the trial court." State v. Harris, 382 S.C. 107, 117, 674 S.E.2d 532, 537 (Ct. App. 2009). "A mistrial should only be granted when absolutely necessary, and a defendant must show both error and prejudice in order to be entitled to a mistrial." State v. Wilson, 389 S.C. 579, 585-586, 698 S.E.2d 862, 865 (Ct. App. 2010).

"Insubstantial errors that do not impact the result of the case do not warrant a mistrial when guilt is conclusively proven by competent evidence." State v. White, 371 S.C. 439, 447-448, 639 S.E.2d 160, 164 (Ct. App. 2006). "The granting of a motion for mistrial is an extreme measure that should only be taken if an incident is so grievous that the prejudicial effect can be removed in no other way." State v. Harris, 382 S.C. 107, 117, 674 S.E.2d 532, 537 (Ct. App. 2009).

"The jury poll serves as the 'primary device' for discovering the doubt or confusion of individual jurors." Leake v. U.S., 77 A.3d 971, 975 (2013). If upon the poll there is not unanimous

concurrence, the jury may be directed to retire for further deliberations or may be discharged. Id. The trial court is vested with the discretion to assess any dissent made by a juror during a jury poll because it is in the best position to determine whether the juror freely consented to the verdict and whether to require subsequent deliberations. Id. "The trial judge has a duty to urge the jury to reach a verdict but he may not coerce them." State v. Singleton, 319 S.C. 312, 316, 460 S.E.2d 573, 575 (1995). "It is not coercion when a trial judge instructs the jury that failure to reach a verdict with require a new trial at additional expense, or states that every juror has a right to his own opinion and need not give it up merely for the purpose of reaching agreement. Id. at 316, 460 S.E.2d at 575-576.

In State v. Roper, the jury came back with a guilty verdict, but when the jury was polled one of the jurors answered in the negative. State v. Roper, 274 S.C. 14, 20, 260 S.E.2d 705, 708 (1979). The trial judge advised the jury collectively that the verdict must be unanimous and had them retire to the jury room. Id. Thirty minutes later the jury returned with a unanimous guilty verdict confirmed by polling. Id. Our Supreme Court held "[W]here a juror indicates merely some degree of reluctance or reservation about the verdict, the course of action depends largely upon the discretion of the trial judge. Where a juror's equivocal, ambiguous, inconsistent, or evasive answers leave doubt whether he has assented to the verdict, but his answers are not such as to indicate involuntariness or coercion, it is generally held that a subsequent answer which indicates clear and unequivocal assent, either on further interrogation or after further deliberation, will cure the defect." Id.

Similarly, in this case, the jury had been deliberating for roughly 20 minutes before coming back into the court room to review a video. (Tr. 301-302). In response to whether dinner needed to be ordered or whether the jury should adjourn for the day, the foreman of the jury informed the

court "I think we're close though." (Tr. 302). The jury went back and deliberated for three minutes before coming back with a verdict. (Tr. 302-303). The jury found Appellant not guilty for possession of contraband, but guilty on both the trafficking cocaine and possession with intent to distribute marijuana. (Tr. 304-305). During the polling of the jury, Juror number 3 stated "I can't agree on one of them charges. I find him not guilty. (Tr. 307). The trial judge told the jury "it appears from the polling that you have been unable to reach a unanimous verdict and given the relatively short period of time that you all have been deliberating, it is appropriate that I ask that you continue your deliberations." (Tr. 309). The jury then continued to deliberate for approximately 7 more minutes before returning with the same verdict as before. (Tr. 310-311). Having the jury go back to deliberate after only deliberating for 20 minutes was not coercive in any manner.

Further a mistrial would have been inappropriate. In State v. Kelly, the jury came back with a guilty verdict on each charge, however when being polled one juror stated she was "not comfortable" with the verdict. State v. Kelly, 372 S.C. 167, 170, 641 S.E.2d 468, 469 (2007). In response the trial judge stated "the [c]ourt fully understands that a juror certainly has been put in a position where you're not comfortable with what you do. I'm not comfortable many times in my job up here. I understand that. But I need—if you don't mind, if you would, I need you to respond to the question: Is this still your verdict?" Id. at 170, 641 S.E.2d at 469-470. The juror responded "I really don't know. I can't..(shaking her head side to side) no." Id. The trial judge sent the jury back to see if they could reach a verdict and trial counsel moved for a mistrial. Id. The jury came back two hours later with a unanimous guilty verdict. Id. This Court found that it was within the trial judge's decision to grant a mistrial or send the jury back for deliberations and that the juror did not indicate that she was coerced into voting for a guilty verdict, nor did she indicate that they

jury was deadlocked and therefore declaring a mistrial was not an absolute necessity and no prejudice resulted from sending the jury back for more deliberations. Id. at 171, 641 S.E.2d at 470. Unlike in Kelly, where the judge spoke directly to the juror, in this case the judge gave a short blanket statement that the verdict needed to be unanimous and since the jury had only been deliberating a short time they should go back and deliberate. Further, while in Kelly the jury continued to deliberate for two hours, in this case it was roughly seven minutes before they returned with a verdict. Sending the jury back for further deliberations was not unduly coercive and therefore the trial judge properly denied Appellant's motion for a mistrial.

2. The trial court properly denied Appellant's motion to suppress drugs obtained after a traffic stop.

Appellant argues that the trial court erred in refusing to suppress the drugs obtained after a traffic stop for failing to stop at the stop line. Specifically, Appellant argues that because Appellant was straddling the line with the car, it was stopped "at" the line and complied with the traffic laws.

Relevant Facts

While on patrol, Ray Holder, with the Dorchester County Sheriff's Office, observed a vehicle pass by and as it did, the passenger suspiciously tried to conceal himself between the front and backseat. (Tr. 136-137). Holder began following the vehicle. (Tr. 137). As the vehicle approached the intersection, Holder noted that the vehicle's front wheels did not stop before the stop line painted on the road near the intersection. (Tr. 46). Prior to trial, Appellant moved to suppress the drugs found as a result of the stop and the subsequent arrest arguing, in part, that the initial traffic stop was not valid because the vehicle that Appellant was in had complied with the law concerning the stop line. (Tr. 76-77). Appellant argued that the term "at" as used in S.C. Code §56-5-2330(b) and S.C. Code § 56-5-2740, means "on." (Tr. 77). Appellant also argued that even

if the word "at" was ambiguous, the court should apply the rule of lenity and construe the statute in the light most favorable to the defendant. (Tr. 77). Appellant argued that the statute is complied with because "It is much at the stop line as I can possibly think of. It is literally at the stop line. It is straddling it. The front wheels seem to be over it. The back wheels seem to be behind it. Therefore, the car itself, the vehicle, as per the statute, is at the stop line. I—I just—applying—applying common sense to the word "at."" (Tr. 77).

The trial court expressed concerns regarding the stop, but ultimately denied Appellant's motion to suppress the drugs. (Tr. 110). In his ruling the trial judge stated:

> Obviously, I am concerned about the stop and have been concerned about the stop, but I've had a chance to look at it and to analyze my thoughts about it, analyze the—the position of the defendant. And this is—this would explain my thoughts and my justification.
>
> First of all, with regards to the stop and the meaning of the word "at" and whether it was intended to be that way or not, the stop sign as it relates to the – the bar, the line, the stop line on the road, they are not exactly—they very well may not be in compliance certainly with the national standards for—for signage because they're not exactly consistent. As I recall, there's the stop sign and then the line, if—I think I remember correctly....
>
> But the word "at" in order to be consistent with the reasonableness standard of interpretation of statutory provisions, it would be difficult to think that "at" means on. And while I certainly understand the position of the defendant, I don't believe that the – I don't believe that this was an illegal stop.

(Tr. 110-111).

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.[1] See Knight v. State, 284 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.").

[1] 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 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).

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) (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 this case, Deputy Holder observed a vehicle and as it drove by the passenger attempted to conceal himself between the front seat and the back seat (Tr. 136-137). Holder testified that

while not a crime it did seem suspicious. (Tr. 137). Holder initiated a traffic stop when he observed the vehicle unlawfully stopping past the white stop line pursuant to S.C. Code §56-5-2330(b).

S.C. Code §56-5-2330(b) states:

> Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop **at** a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. (Emphasis added).

Similarly, S.C. Code § 56-5-2740 states:

> Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no cross walk, shall stop **at** a clearly marked stop line but, if none, then at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering the intersection except when directed to proceed by a police officer or traffic-control signal. (Emphasis added).

Appellant argues the plain and unambiguous meaning of the term "at" in S.C. Code §§ 56-5-2330(b) and 56-5-2740 means on the line. Appellant cites to the Merriam Webster's online dictionary definition as "a function word to indicate presence or occurrence in, on, or near."[2] Even if "at" did mean "on" it would mean the front of the vehicle on the line, not the middle of the vehicle. In this case, half of the vehicle was past the stop line so while some of the car was "on" the line anything past the stop line would not comply with the statute. Further, the intent of the legislature is safety and to prevent collisions. In State v. Tyson[3], the Ohio Court of Appeals discussed the meaning of the word "at" in its traffic violation R.C. 4511.43(A), which provided:

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[2] See Merriam-Webster. (n.d). At. In Merriam-Webster.com dictionary. Retrieved September 12, 2024, from https://merriam-webster.com/dictionary/at

[3] State v. Tyson, 41 N.E.3d 450, 454, (2015).

> Except when directed to proceed by a law enforcement officer, every driver of a vehicle ...approaching a stop sign shall clearly stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it.

Ohio Rev. Code §4511.43(A). Tyson states that the code does not define "at" or what it means to stop at a clearly marked line. In its ruling, the Ohio Court of Appeals held that in order "to comply with the statute, a motorist must stop his or her vehicle before any portion of his or her vehicle crosses the edge of the stop line that is furthest from the front-most portion of his or her approaching vehicle." State v. Tyson, 41 N.E.3d 450, 456 (2015). In its reasoning the court stated it did not further the legislative purpose because if a vehicle straddled a stop line then the line does not mark a definite stopping point, but a range of stopping points dependent on the length of the vehicle involved. Id. The Court further stated that it would be illogical that the General Assembly would want to establish a range of stopping points rather than a definite point. Id. "In the case of a relatively small passenger automobile, it may not make much difference, in terms of road safety, whether the vehicle stops behind the line or astride it. However, the vehicles that travel on...roads come in all shapes and sizes. The trial court's interpretation becomes significantly more problematic if applied to a 40-foot-long bus that could project well into an intersection before its rear wheels reach the stop line. Under the trial court's interpretation of the applicable statutes, the bus would have made a proper stop." People v. Wood, 379 Ill. App.3d 705, 709 883 N.E.2d 620, (2008)

Holder testified that at this particular intersection if a vehicle was past the stop line, a car coming from the other direction could take off the front end of the vehicle. (Tr. 138-139). If the court interprets the definition of "at" as Appellant's definition, the stop was still proper because

the officer could have reasonable interpreted the definition of "at" the way he did.[4] Therefore, the traffic stop was proper, and the trial judge properly denied the suppression motion.

[4] 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").

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgments and convictions of the lower court should be affirmed.

Respectfully submitted,

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