STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Oct 03 2025
SC Court of Appeals

Appeal from Pickens County
Honorable Patrick C. Fant, III, Circuit Court Judge
Appellate Case No. 2024-001211

THE STATE,

Respondent,

vs.

ROBERT ALLEN HENDERSON, JR.,

Appellant.

INITIAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General

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

CINDY S. CRICK
Solicitor, Thirteenth Judicial Circuit

305 East North Street, Suite 325
Greenville County Courthouse
Greenville, SC 29601
(864) 467-8282

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

South Carolina Cases:

United States Supreme Court Cases:

Other State Cases:

Other Federal Cases:

Constitutional Provisions, Statutes, and Rules:

STATEMENT OF ISSUE ON APPEAL

"Whether the trial court erred denying appellant's motion to suppress drug evidence found during a warrantless search of appellant in violation of the Fourth Amendment where no exception applied, and appellant's will was overborne such that his consent was not voluntarily given?"

COUNTER-STATEMENT OF ISSUE ON APPEAL

Did the trial judge somehow err by declining to suppress the methamphetamine found hidden inside Appellant's pocket during the course of the traffic stop when the deputy who stopped Appellant's vehicle did not unreasonably prolong the stop beyond the time necessary to complete its mission prior to obtaining Appellant's voluntary consent for the search that led to the discovery of the drugs?

STATEMENT OF THE CASE

In January of 2022, Appellant Robert Allen Henderson, Jr. was arrested after a deputy found methamphetamine in his pocket during the course of a traffic stop. In July of 2023, the Pickens County Grand Jury indicted Appellant for possession of methamphetamine with intent to distribute. On July 8, 2024, a jury trial was commenced in the Pickens County Court of General Sessions with the Honorable Patrick C. Fant, III, circuit court judge, presiding. At the conclusion of the two-day trial, the jury convicted Appellant of possession of methamphetamine. Following the verdict, the trial judge sentenced Appellant to a ten-year term of imprisonment suspended to a four-year term of imprisonment to be followed by three years of probation. Appellant then timely filed a notice of appeal.

STATEMENT OF FACTS

Around 10:30 p.m. on the night of January 6, 2022, Deputy Terry Bradley of the Pickens County Sheriff's Office was on patrol in Easley, South Carolina, when he observed a white Toyota Corolla pull out of the parking lot of the Sun Inn, which—according to the deputy—was a "known high crime drug area." (Tr. pp. 32-33; pp. 111-114; p. 117). Notably, at that time, the vehicle did not have a working tag light as required by state law. (Tr. p. 32; p. 113; pp. 115-116). Based on that, Deputy Bradley pursued the vehicle and initiated a traffic stop for the equipment violation he had observed. (Tr. p. 32; p. 38; p. 113).

After stopping the vehicle, Deputy Bradley made contact with Appellant, who was the car's driver and lone occupant. (Tr. p. 33; p. 43; p. 113; State's Ex. # 6 (Body Camera Recording)). Upon doing so, the deputy quickly advised Appellant he stopped him for a tag light violation, and Appellant responded he had "put 'em underneath it" in an effort to fix the tag lights after they had purportedly fallen. (Tr. pp. 44-45; State's Ex. # 6).

Deputy Bradley then asked Appellant for his driver's license, registration, and proof of insurance. (Tr. p. 33; p. 114; State's Ex. # 6). In response, Appellant—who appeared to be visibly nervous and antsy—fumbled around in the vehicle's glove box for a moment before producing his license[1] and some paperwork that was *not* the vehicle's registration. (Tr. p. 33; p. 114; p. 116; State's Ex. # 6). The deputy quickly pointed out Appellant had provided the wrong paperwork, and Appellant resumed his search and was able to locate the actual registration. (Tr. p. 33; p. 114; State's Ex. # 6). Meanwhile, Appellant did not have the insurance information and said he would have to make a call to obtain it. (Tr. p. 116; State's Ex. # 6).

[1] Later on during the stop, Deputy Bradley learned Appellant's license was suspended. (Tr. pp. 36-37; pp. 47-48).

Shortly after that and just a minute or so after the face-to-face encounter had first begun, Deputy Bradley asked Appellant if there was anything he needed to know about inside the vehicle such as "guns, knives, hand grenades, drugs, weapons of mass destruction, flamethrowers, [or a] dead body," and Appellant—with what appeared to be a chuckle—responded: "No, sir. No, sir." (Tr. p. 34; p. 114; State's Ex. # 6). The deputy then followed up by asking if Appellant minded him searching the vehicle, and Appellant immediately responded he did not. (Tr. p. 34; p. 114; State's Ex. # 6).

At that point, Deputy Bradley asked Appellant to step out of the car, and Appellant complied with the request. (Tr. p. 34; p. 114; State's Ex. # 6). The deputy then secured the paperwork he had been able to obtain from Appellant up to that point in his vehicle before walking back over to Appellant, who was now standing near the rear of his car. (State's Ex. # 6). Upon doing so, Deputy Bradley asked Appellant if he had anything on him that the deputy needed to know about, and Appellant said he did not. (State's Ex. # 6). As a safety precaution, Deputy Bradley—just over two minutes after the face-to-face encounter had begun—then asked Appellant if he minded him searching him, and, without any hesitation, Appellant responded he did not. (Tr. p. 34; pp. 114-115; State's Ex. # 6).

Upon receiving that consent, Deputy Bradley directed Appellant to place his hands on his vehicle's trunk, Appellant complied, and the deputy began a pat-down search of Appellant's clothing. (Tr. p. 36; p. 49; State's Ex. # 6). Just seconds later, Deputy Bradley asked Appellant if he could search Appellant's pockets. (Tr. p. 34; p. 115; State's Ex. # 6). Appellant briefly hesitated and asked the deputy to let him make sure he did not have a pocketknife in there. (Tr. p. 34; State's Ex. # 6). In response to that, Deputy Bradley assured Appellant it would be "fine" if he did and again asked Appellant if Appellant had any problem with him searching

Appellant's pockets. (Tr. p. 115; State's Ex. # 6). That time, Appellant unambiguously responded he did not. (Tr. p. 34; p. 115; State's Ex. # 6).

Following that and less than three minutes into the face-to-face encounter, Deputy Bradley proceeded to conduct a quick search of Appellant's jacket pocket and found a small plastic baggie containing a white crystal-like substance inside. (Tr. p. 34; p. 115; p. 117; State's Ex. # 6). Upon making that discovery, Deputy Bradley swiftly handcuffed and arrested Appellant, and Appellant candidly acknowledged the substance found in his pocket was methamphetamine. (Tr. p. 34; p. 115; State's Ex. # 6).

Subsequent to Appellant's arrest, the crystal-like substance was submitted for analysis and confirmed to be 3.53 grams of methamphetamine. (Tr. pp. 120-122; pp. 138-139). Based on that, Appellant was indicted for possession of methamphetamine with intent to distribute,[2] and he ultimately elected to proceed forward to trial. (Tr. pp. 6-7; Indictment).

Toward the outset of trial, defense counsel moved to suppress the drugs based on an alleged violation of Appellant's constitutional rights. (Tr. pp. 30-31). In response, the trial judge conducted an in camera hearing on the matter, and both Deputy Bradley[3] and Appellant offered accounts of what happened on the date of the incident. (Tr. pp. 32-49; pp. 52-55). In addition to that, a recording of the incident was introduced and played for the trial judge. (Tr. p. 44).

After that evidence and testimony was presented, defense counsel offered a variety of arguments in support of the motion to suppress. (Tr. p. 56; p. 62; pp. 71-72; p. 74; pp. 87-88). Amongst the arguments raised, defense counsel alleged there was no lawful basis for the traffic

---

[2] Notably, during a search conducted incident to Appellant's arrest, Deputy Bradley found $700 in cash in Appellant's possession, which—along with the quantity of the drugs seized—was suggestive of drug dealing. (Tr. p. 35; p. 119).

[3] By the time of trial, Deputy Bradley was working for the Anderson County Sheriff's Office. (Tr. p. 32; p. 111).

stop, the deputy unlawfully extended the stop without reasonable suspicion purely by asking Appellant for consent to search him, there was no evidence establishing the consent Appellant provided was voluntary, and Appellant's consent was the product of an unlawful detention. (Tr. p. 56; p. 62; pp. 71-72; p. 74; pp. 87-88).

Conversely, the solicitor argued the traffic stop was validly initiated because Deputy Bradley's testimony established Appellant's tag was not properly illuminated as required by South Carolina law, which provided a lawful basis for the stop. (Tr. p. 58; pp. 76-77). Furthermore, the solicitor argued Deputy Bradley obtained Appellant's consent to search during the course of the stop and the totality of the circumstances demonstrated that consent was voluntarily given. (Tr. pp. 77-79; pp. 89-91).

Upon considering the matter, the trial judge declined to suppress the methamphetamine. (Tr. pp. 92-93; p. 97). In so ruling, the trial judge found the traffic stop was legally initiated based on Appellant's violation of South Carolina law, Deputy Bradley did not exceed the scope of the traffic stop prior to obtaining Appellant's consent to search, and that consent was voluntarily provided and not the product of any unlawful detention. (Tr. p. 61; pp. 92-93).

Following that ruling, Appellant's trial proceeded forward, Deputy Bradley testified before the jury about events that led up to Appellant's arrest, and Appellant's methamphetamine was—with "[n]o objection" from defense counsel—admitted into evidence. (Tr. pp. 111-135). In addition to that, Appellant testified in his own defense, acknowledged he was a methamphetamine user, and claimed he had no intention to distribute the methamphetamine found in his possession, which he readily admitted was his. (Tr. pp. 147-150). Ultimately, based on the testimony and evidence presented, the jury convicted Appellant of possession of methamphetamine after just over an hour of deliberations. (Tr. p. 181; p. 184).

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).

ARGUMENT

The trial judge correctly declined to suppress the methamphetamine found hidden inside Appellant's pocket during the course of the traffic stop because the deputy who stopped Appellant's vehicle did not unreasonably prolong the stop beyond the time necessary to complete its mission prior to obtaining Appellant's voluntary consent for the search that led to the discovery of the drugs.

Appellant contends the trial judge reversibly erred by declining to suppress the evidence discovered through a purportedly unconstitutional consent-based search of Appellant's pockets that was conducted during the course of the traffic stop.[4] In support of that contention, Appellant maintains the stop was allegedly unlawfully extended without reasonable suspicion of criminal activity, his will was purportedly overborne, and the consent to search he provided to the officer was supposedly not voluntary under the totality of the circumstances. To the contrary, Deputy

[4] Notably, although defense counsel moved for the methamphetamine found during the consent-based search to be suppressed during an in camera hearing conducted before the evidentiary phase of Appellant's trial got underway, defense counsel affirmatively indicated to the trial judge she had "[n]o objection" to that evidence's admission when the solicitor actually sought to introduce it during trial. (Tr. p. 123). Thus, despite the earlier objection raised, the trial judge ultimately admitted that evidence without objection. (Tr. p. 123). Under such circumstances, defense counsel's earlier objection was *abandoned* instead of simply not renewed, and any issue concerning the admission of Appellant's methamphetamine was not properly preserved for appellate review since that evidence was expressly admitted without objection during trial. See Burke v. AnMed Health, 393 S.C. 48, 55, 710 S.E.2d 84, 88 (Ct. App. 2011) ("When a party states to the trial court that it has no objection to the introduction of evidence, even though the party previously made a motion to exclude the evidence, the issue raised in the previous motion is not preserved for appellate review."); see also State v. Jones, 435 S.C. 138, 144, 866 S.E.2d 558, 561 (2021) ("[A] different approach is warranted where a court rules after a[n in limine] hearing on a constitutional issue. Under those circumstances, the ruling is final and, unless something changes during trial that may reasonably cause the trial judge to alter the pretrial ruling, no further objection is required to preserve the issue for appellate review."); cf. State v. Dicapua, 373 S.C. 452, 455, 646 S.E.2d 150, 152 (Ct. App. 2007) ("Dicapua's sole objection to the videotape came in the form of a motion in limine to suppress the videotape because of its lack of audio. Once the State moved to enter the videotape into evidence and publish it to the jury, however, Dicapua's counsel specifically stated he had 'no objection.' We find this amounted to a waiver of any issue Dicapua had with the videotape."). Therefore, notwithstanding the merit-based problems with Appellant's arguments on appeal, the issue Appellant is attempting to now raise can and should be rejected as procedurally barred. See Rule 220(c), SCACR ("The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.").

Bradley—while in the process of conducting a valid traffic stop—lawfully asked Appellant for consent to search both his vehicle and person before the original purpose of the stop was or reasonably could have been concluded, and Appellant responded to the deputy's requests by unequivocally providing consent. Following that, Deputy Bradley quickly found Appellant's hidden methamphetamine during a search of Appellant's pocket that was conducted with Appellant's express and voluntarily-given permission. Under such circumstances, the consent-based search of Appellant's pockets that led to the discovery of his methamphetamine was constitutionally proper, and the trial judge correctly declined to suppress the drugs. Appellant's conviction should be affirmed.

A. Just as the trial judge wisely recognized, the officer did not unlawfully, unreasonably, or unconstitutionally extend the traffic stop simply by asking Appellant for permission to search within less than three minutes of first making contact with him and before the purpose of the traffic stop was or reasonably could have been completed. Thus, Appellant's consent was not the product of an unlawful or unconstitutional detention.

Both the Fourth Amendment of the United States Constitution and Article I, Section 10 of the South Carolina Constitution provide protections 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. See Florida v. Jimeno, 500 U.S. 248, 250 (1991) ("The touchstone of the Fourth Amendment is reasonableness."). As a result, *only* unreasonable searches and seizures are constitutionally prohibited. State v. Foster, 269 S.C.

373, 378, 237 S.E.2d 589, 591 (1977); see Maryland v. Buie, 494 U.S. 325, 331 (1990) ("It goes without saying that the Fourth Amendment bars only unreasonable searches and seizures[.]").

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. 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."). Notably, minor traffic offenses in South Carolina—including vehicle equipment violations—constitute misdemeanor *criminal* offenses. 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."); S.C. Code Ann. § 56-5-4410 ("It shall be unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such an unsafe condition as to endanger any person or property or which does not contain those parts or is not at all times equipped with lights, brakes, steering and other equipment in proper condition and adjustment as required in this article or which is equipped in any manner in violation of this article or for any person to do any act forbidden or fail to perform any act required under this article."); S.C. Code Ann. § 56-5-6190 ("It is a misdemeanor for any person to violate any of the

provisions of [the Uniform Act Regulating Traffic on Highways] unless such violation is by this chapter or other law of this State declared to be a felony.").

Once an investigatory traffic stop is initiated, it must be temporary and last no longer than necessary to effectuate its purpose. State v. Pichardo, 367 S.C. 84, 98, 623 S.E.2d 840, 848 (Ct. App. 2005); see Rodriguez v. United States, 575 U.S. 348, 349 (2015) ("Authority for the seizure ends when tasks tied to the traffic infraction are—or reasonably should have been—completed."); see also United States v. Branch, 537 F.3d 328, 336 (4th Cir. 2008) ("The maximum acceptable length of a routine traffic stop cannot be stated with mathematical precision. Instead, the appropriate constitutional inquiry is whether the detention lasted longer than was necessary, given its purpose."). Typically, such a stop begins at the point an officer stops a vehicle to investigate the basis for the stop and continues for the period necessary to complete the investigation *and* conduct the ordinary inquiries incident to any stop. Arizona v. Johnson, 555 U.S. 323, 333 (2009); see Rodriguez, 575 U.S. at 355 ("Beyond determining whether to issue a traffic ticket, an officer's mission includes ordinary inquiries incident to the traffic stop. Typically such inquiries involve checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance. These checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly." (citations, internal quotations, and brackets omitted)).

As part of the permissible inquiries during a traffic stop, an officer may order the driver and any passengers out of the vehicle pending completion of the stop and "may request a driver's license and vehicle registration, run a computer check, and issue a citation." Pichardo, 367 S.C. at 98, 623 S.E.2d at 847; see Maryland v. Wilson, 519 U.S. 408, 415 (1997) ("[A]n officer

making a traffic stop may order passengers to get out of the car pending completion of the stop."); Pennsylvania v. Mimms, 434 U.S. 106, 111 (1977) (per curiam) (instructing it is constitutionally proper for an officer to order the driver to exit a vehicle during a traffic stop and explaining the intrusion into the driver's personal liberty occasioned by an order to exit the vehicle during the already-initiated stop is a de minimis one that "hardly rises to the level of a petty indignity" and, at most, constitutes a "mere inconvenience"); Milledge v. State, 422 S.C. 366, 375, 811 S.E.2d 796, 801 (2018) ("Upon initiating the traffic stop, a police officer may order the driver out of the vehicle in the interest of officer safety."); see also State v. Hale, 489 P.3d 450, 454 (Idaho 2021) ("[B]ecause traffic-stops are fraught with danger to police officers, an officer may take certain negligibly burdensome precautions in order to complete his mission safely, such as asking for the driver and passenger to exit the vehicle[.]" (citations and internal quotations omitted)). Significantly, an officer's traffic stop inquiries can *also* permissibly include questions related to whether the stopped vehicle contains anything illegal and requests for consent to search since such inquiries are legitimately related to ensuring officer safety during the stop. See United States v. Buzzard, 1 F.4th 198, 204 (4th Cir. 2021) (concluding a question about whether there is anything illegal in a stopped vehicle is related to officer safety and, thus, is related to a traffic stop's mission); State v. Smith, 333 A.3d 971, 979 (Md. App. Ct. 2025) ("Among the questions the officer is permitted to ask during a Terry stop is whether the person will consent to a search of his person."). Beyond that, an officer can also inquire into matters *unrelated* to the initial justification for the stop without converting the stop into something other than a lawful seizure so long as the unrelated questioning does not measurably extend the stop's duration. Johnson, 555 U.S. at 333; see Muehler v. Mena, 544 U.S. 93, 100-101 (2005) (recognizing additional questioning during a detention unrelated to the original

purpose of the detention does not per se constitute an additional seizure or independent constitutional violation).

Generally speaking, a traffic stop normally ends "when the police have no further need to control the scene, and inform the driver and passengers they are free to leave." Johnson, 555 U.S. at 333; see Kothe v. State, 152 S.W.3d 54, 63-64 (Tex. Crim. App. 2004) ("On a routine traffic stop, police officers may request certain information from a driver, such as a driver's license and car registration, and may conduct a computer check on that information. It is only after this computer check is completed, and the officer knows that this driver has a currently valid license, no outstanding warrants, and the car is not stolen, that the traffic-stop investigation is fully resolved." (footnotes omitted)). However, a traffic stop detention "can become unlawful if it is prolonged beyond the time reasonably required to complete [its] mission." Illinois v. Caballes, 543 U.S. 405, 407 (2005); see Pichardo, 367 S.C. at 98, 623 S.E.2d at 848 ("Once the purpose of that stop has been fulfilled, the continued detention of the car and the occupants amounts to a second detention.").

In the case sub judice, Deputy Bradley observed Appellant driving a vehicle that did not have a properly-functioning tag light as required by South Carolina law, which was an act that constituted a criminal offense in our state. S.C. Code Ann. § 56-5-4410; see S.C. Code Ann. § 56-5-4530 ("Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted."). Therefore, it was entirely proper for the deputy to initiate a traffic stop in Appellant's case, and the seizure that resulted from it was

constitutionally reasonable and proper. Cf. State v. Jihad, 347 S.C. 12, 15, 553 S.E.2d 249, 251 (2001) (finding a traffic stop for an equipment violation was valid because "it is unlawful to drive with a non-functioning brake light").

Furthermore, during the course of that validly-initiated traffic stop and accompanying seizure, Deputy Bradley—as a safety precaution—properly asked for and received consent from Appellant to conduct a search of him and his pockets, which was what led to the discovery of Appellant's hidden methamphetamine. And, critically, that request for consent to search did not in any way unconstitutionally extend or expand the scope of the traffic stop because it was directly related to the ongoing stop's mission since—like the deputy's directive for Appellant to exit the vehicle—it served officer safety purposes by ensuring the deputy could safely complete the stop without having to worry about whether Appellant would pose any danger to him during the period in which his attention would necessarily have to be focused on conducting the routine steps involved in completing the stop.[5] See Buzzard, 1 F.4th at 204 (recognizing questioning about whether anything illegal was present related to officer safety and, therefore, related to the traffic stop's mission); see also Rodriguez, 575 U.S. at 354-356 (instructing "the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission'—to address the traffic violation that warranted the stop . . . *and attend to related safety concerns*" and explaining "the government's officer safety interest stems from the mission of the stop itself . . . so an officer may need to take certain negligibly burdensome precautions in order to

[5] Notably, Deputy Bradley had legitimate reasons to be concerned for his safety during the stop since it was being conducted during nighttime hours, he had just observed Appellant leaving an area he knew to be associated with drugs and high crime, and—despite being advised at the outset of the stop he had only been pulled over for an equipment violation—Appellant continued displaying overt signs of heightened nervousness, including by providing incorrect paperwork in response to a simple request for the vehicle's registration. (Tr. pp. 32-34; pp. 113-117; State's Ex. # 6).

complete his mission safely" (emphasis added)); Johnson, 555 U.S. at 330-331 (explaining traffic stops are especially fraught with danger to police officers); Terry v. Ohio, 392 U.S. 1, 23 (1968) ("Certainly it would be unreasonable to require that police officers take unnecessary risks in the performance of their duties. American criminals have a long tradition of armed violence, and every year in this country many law enforcement officers are killed in the line of duty, and thousands more are wounded."); cf. United States v. Bullock, 510 F.3d 342, 349 (D.C. Cir. 2007) ("Statistics show that traffic stops continue to be extraordinarily dangerous to the police officers who risk their lives to protect the public. Every year in traffic stops and pursuits in the United States, about 6,000 police officers are assaulted—and about 10 officers are killed. By ordering Bullock out of the car and frisking him for purposes of officer safety, Officer Jackson did not take any unreasonable steps in attempting to ensure that he would not become one of these statistics." (citations and internal quotations omitted)). Under such circumstances, Appellant's consent was *not* the product of any unlawful detention.

However, even assuming for argument's sake Deputy Bradley's request for consent to search somehow could be construed as being purely related to general law enforcement goals as opposed to the stop's mission, that consent request *still* did not unlawfully extend the stop "by even a second" because it occurred while the original mission of the stop was still ongoing and progressing. Buzzard, 1 F.4th at 204. Specifically, Deputy Bradley asked Appellant for consent to conduct a search of him and his pockets just over two minutes after the encounter between the two began and *before* Appellant had even fully provided all the information the deputy requested and needed in order to be able to complete the stop.[6] Cf. id. ("[Officer] Dawson was mid-stop

[6] Indeed, defense counsel candidly conceded to the trial judge Appellant had not yet provided proof of insurance at the time the deputy asked for consent to search "so, technically, the stop was not over." (Tr. p. 71). Beyond that, defense counsel admitted Appellant did *not* have a valid

when he asked whether there was anything illegal in the vehicle. He didn't yet have the information he needed to perform the customary checks on the driver and vehicle, and he was waiting for an additional officer to arrive so he could safely proceed with the stop. Because the question was asked during a lawful traffic stop and didn't prolong the stop, it passes constitutional muster under Rodriguez even if it exceeded the scope of the stop's mission."). Based on that, the deputy's request for consent to search did not and could not have extended the still-ongoing stop under the circumstances involved. Cf. United States v. Puckett, 139 F.4th 730, 739 (8th Cir. 2025) (concluding a request for consent to search did not unreasonably prolong a traffic stop and constitute a separate detention when "Trooper Rorie had not completed his traffic-stop related duties when he requested consent to search" and "[t]he 20 seconds of questioning did not prolong the stop beyond the time that it would have taken Trooper Rorie to issue a written citation or warning and have Puckett return to his vehicle"); United States v. Mathes, 58 F.4th 990, 993 (8th Cir. 2023) ("[Detective] Counce's request for permission to search required only a couple of seconds while Humes was standing at the rear of the vehicle. That inquiry did not extend the stop beyond the time that would have been required for Humes to return to the driver's seat. The officer thus did not unreasonably prolong the traffic stop."); State v. Adams, 377 S.C. 334, 339, 659 S.E.2d 272, 275 (Ct. App. 2008) (holding Adams's consent was "given within the initial parameters of the lawful detention" occasioned by the traffic stop); Myers v. Commonwealth, 911 S.E.2d 828, 834 (Va. Ct. App. 2025) ("Trooper Greene asked to search the car before he had even collected the identifications and before he had checked the status of the driver's license. The driver readily acquiesced to the search; he did not hesitate or equivocate. Although the request to search the car had nothing to do with Trooper Greene's

---

driver's license, which was a fact defense counsel acknowledged the deputy would have inevitably discovered at some point during the stop. (Tr. p. 85).

reason to initiate the traffic stop, it did not unlawfully extend the stop because the Fourth Amendment tolerates certain unrelated investigations that do not lengthen the roadside detention, such as checking driver's licenses." (citations, brackets, and internal quotations omitted)).

For those reasons, Deputy Bradley's request for consent to search during the traffic stop was not improper and did not unlawfully extend the stop, and all the deputy's actions during the stop were entirely constitutionally reasonable. See Foster, 269 S.C. at 378, 237 S.E.2d at 591 (instructing only unreasonable actions are constitutionally prohibited). Accordingly, no matter whether Deputy Bradley did or did not possess reasonable suspicion of any *additional* crimes beyond the equipment violation at the time he asked for and received Appellant's consent, the trial judge correctly concluded that consent was not the product of an unconstitutional detention.

B. The search of Appellant's pockets was validly conducted with Appellant's voluntary consent, and, therefore, the trial judge correctly denied the suppression motion since Appellant's methamphetamine was found through a constitutionally-proper consent-based search.

For constitutional purposes, warrantless searches are typically considered to be unreasonable per se *unless* they fall under an exception to the general warrant requirement. State v. Peters, 271 S.C. 498, 501, 248 S.E.2d 475, 476 (1978); see Kentucky v. King, 563 U.S. 452, 462 (2011) ("[W]arrantless searches are allowed when the circumstances make it reasonable . . . to dispense with the warrant requirement."). In South Carolina and throughout the nation, several different exceptions to the warrant requirement have been recognized, including the well-established consent exception. State v. Brown, 401 S.C. 82, 89, 736 S.E.2d 263, 266 (2012); see Schneckloth v. Bustamonte, 412 U.S. 218, 219 (1973) ("It is . . . well settled that one of the specifically established exceptions to the requirements of both a warrant and probable cause is a search that is conducted pursuant to consent."). Of the recognized exceptions, consent has long been accepted because "it is no doubt reasonable for the police to conduct a search once they

have been permitted to do so." Jimeno, 500 U.S. at 250-251; see Foster, 269 S.C. at 378, 237 S.E.2d at 591 ("It is only unreasonable searches and seizures that are prohibited.").

Pursuant to the consent exception, an officer can validly conduct a warrantless search of a constitutionally-protected area when the officer receives free and voluntary consent, which can be provided either by words, actions, or a combination of the two. Adams, 377 S.C. at 339, 659 S.E.2d at 275; see State v. Forrester, 343 S.C. 637, 649, 541 S.E.2d 837, 843 (2001) (concluding Forrester granted consent for a limited visual inspection search—and nothing further—through her *act* of holding her purse open for the officer to see inside in response to the officer's request for permission to search the purse); State v. Moultrie, 271 S.C. 526, 529, 248 S.E.2d 486, 488 (1978) (instructing law enforcement officers should be permitted to rely on "the general appearances of the situation" when deciding whether to act upon consent that has been provided). Significantly, whether voluntary consent has been provided is a question of fact for the trial judge, and it is a matter to be determined from the totality of the circumstances. Pichardo, 367 S.C. at 105, 623 S.E.2d at 851; see United States v. Winston, 444 F.3d 115, 121 (1st Cir. 2006) ("The existence of consent and the voluntariness thereof are questions of fact to be determined from all the circumstances surrounding the search." (citation and internal quotations omitted)); State v. Bailey, 276 S.C. 32, 36, 274 S.E.2d 913, 915 (1981) (recognizing the issue of whether consent for a search was validly given constitutes "a question of fact for the trial judge"). Factors to be considered when determining whether consent was validly provided include the characteristics of the individual providing consent, such as the individual's age, maturity, education, intelligence, and experience, along with the conditions under which the consent was granted, such as the conduct of the officer asking for consent, the number of officers

present, and the duration of the encounter. United States v. Boone, 245 F.3d 352, 361-362 (4th Cir. 2001).

In the case at bar, Deputy Bradley was still properly carrying out a validly-initiated traffic stop at the time he sought permission from Appellant to search his pockets for all the reasons previously articulated. See id. at 362 ("If an individual voluntarily consents to a search while justifiably detained on reasonable suspicion, the products of the search are admissible."); see also Pichardo, 367 S.C. at 105, 623 S.E.2d at 851 ("[W]hen an officer asks for consent to search *after* an unconstitutional detention, the consent procured is per se invalid unless it is both voluntary and not an exploitation of the unlawful detention."); cf. State v. Willard, 374 S.C. 129, 136, 647 S.E.2d 252, 256 (Ct. App. 2007) ("We likewise find the search was not an exploitation of an unlawful detention. As previously discussed, we find reasonable suspicion existed to make the stop and detention. Furthermore, although Willard allegedly noticed the officers' guns when first surrounded, there is no evidence of any threat of force against Willard once he had exited his vehicle. Nor is there evidence of coercion or promises made."). Based on that, Appellant's consent to the search could not properly be characterized as the invalid product of an unlawful detention since he was not, in fact, unlawfully detained.

Furthermore, demonstrating the voluntariness of the consent provided by Appellant, Appellant appeared to be of a sufficient age, maturity, and intellect to provide consent, and his multiple prior convictions established he had pre-existing familiarity with the criminal justice process.[7] Cf. United States v. Watson, 423 U.S. 411, 424-425 (1976) ("There is no indication in this record that Watson was a newcomer to the law, mentally deficient, or unable in the face of a

[7] Prior to sentencing, the solicitor recounted Appellant's lengthy prior criminal record, which extended back to 1996 and included convictions for burglary, accessory before the fact to armed robbery, trafficking in methamphetamine, possession of methamphetamine with intent to distribute, grand larceny, forgery, and possession of a stolen vehicle. (Tr. p. 186).

custodial arrest to exercise a free choice." (footnote omitted)). Beyond that, the traffic stop had only been ongoing for *just over two minutes* at the time Deputy Bradley sought and obtained consent to search Appellant's pocket, which is where Appellant's methamphetamine was found. See State v. Mattison, 352 S.C. 577, 584, 575 S.E.2d 852, 855 (2003) ("Custody alone . . . is not enough in itself to demonstrate a coerced consent to search."); cf. United States v. Salkil, 10 F.4th 897, 899 (8th Cir. 2021) ("[P]olice obtained consent to search within the time reasonably required to complete the mission of the traffic stop. Once police lawfully secured consent to search, any delay occasioned by the search did not constitute an unlawful extension of the seizure."). Similarly, Deputy Bradley did not undertake any coercive or threatening actions, such as pulling out his service weapon, in order to obtain Appellant's consent, and neither of the other officers who responded to assist with the stop engaged in any coercive or threatening actions, either. See Hanson v. State, 568 P.3d 1186, 1195 (Wyo. 2025) ("Armed and uniformed officers are present at every traffic stop, and if that factor alone was sufficient to invalidate the voluntariness of a consent search, no consent would ever be voluntary." (citation and internal quotations omitted)); cf. Watson, 423 U.S. at 424 (1976) ("There was no overt act or threat of force against Watson proved or claimed."). Finally, Appellant clearly, expressly, and unequivocally provided consent for Deputy Bradley to search his pockets, and, once the search began, Appellant did not attempt in any way to revoke or limit his consent. See State v. Trapp, 420 S.C. 217, 242, 801 S.E.2d 742, 755 (Ct. App. 2017) (concluding a search did not exceed the consent provided where "Trapp presented no evidence that he limited the consent he gave to the police in their investigation"). Under the totality of those circumstances, Appellant's consent was freely and voluntarily given, and Deputy Bradley's consent-based search of Appellant's pocket was constitutionally permissible just as the trial judge found.

Accordingly, because his fact-based ruling on the voluntariness of Appellant's consent was supported by the evidence and testimony presented, the trial judge correctly found the search was constitutionally proper based on the consent provided, and there are no legitimate grounds upon which his ruling denying the suppression motion could validly be disturbed on appeal. See Mattison, 352 S.C. at 584, 575 S.E.2d at 856 ("A trial judge's conclusions on issues of fact regarding voluntariness will not be disturbed on appeal unless so manifestly erroneous as to be an abuse of discretion."). Appellant's conviction should be affirmed.

CONCLUSION

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

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General

CINDY S. CRICK
Solicitor, Thirteenth Judicial Circuit

BY:_____
Mark R. Farthing
S.C. Bar Number 76901

ATTORNEYS FOR RESPONDENT

October 3, 2025

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
Honorable Patrick C. Fant, III, Circuit Court Judge
Appellate Case No. 2024-001211

THE STATE,

Respondent,

vs.

ROBERT ALLEN HENDERSON, JR.,

Appellant.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Respondent proposes the following to be included in the Record on Appeal:

(1) Trial Transcript, Pages 1, 6-7, and 29-188;

(2) Indictment (#2022-GS-39-0748);

(3) Arrest Warrant (#2022A3910100020);

(4) Sentencing Sheet;

(5) State's Exhibit # 6 (Body Camera Recording)

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General

CINDY S. CRICK
Solicitor, Thirteenth Judicial Circuit

BY:_____
Mark R. Farthing
S.C. Bar Number 76901

ATTORNEYS FOR RESPONDENT

October 3, 2025

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
Honorable Patrick C. Fant, III, Circuit Court Judge
Appellate Case No. 2024-001211

THE STATE,

Respondent,

vs.

ROBERT ALLEN HENDERSON, JR.,

Appellant.

PROOF OF SERVICE

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

Sarah E. Shipe, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211

I further certify all parties required by Rule to be served have been served.
This 3rd day of October, 2025.

CAROLINE COLLINS
Administrative Support Manager
Office of the Attorney General