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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2025-001041

The State, ...Respondent,

v.

Jennifer Blair McNaughton,...Appellant.

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RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

1. Whether the trial court properly denied Appellant's motion to suppress drug evidence discovered during the warrantless search of her truck at a lawful traffic stop where: (1) the initial detention continued only for the period necessary to complete the investigation and conduct the relevant inquiries incident to the stop; (2) even if the initial stop somehow extended into a second detention, the police developed reasonable suspicion of criminal activity to justify briefly extending the length of the traffic stop; and (3) Appellant freely and voluntarily consented to the search of her truck before the end of her constitutionally valid detention.

STATEMENT OF THE CASE

Jennifer Blair McNaughton (Appellant) was indicted at the April 21, 2022 term of the grand jury for Lancaster County for trafficking in methamphetamine (meth) 10 grams or more but less than 28 grams. (2022-GS-29-739). She was represented by Public Defender William Frick of the Sixth Circuit Public Defender's Office. Respondent (the State) was represented by Assistant Solicitors Julian T. Cuthbertson and Kaitlyn Easler of the Sixth Circuit Solicitor's Office. On May 19-21, 2025, the case proceeded to trial before the Honorable Donald B. Hocker and a jury at the conclusion of which, the jury found Appellant guilty as indicted. Judge Hocker imposed the mandatory $25,000 fine and sentenced Appellant to three-and-a-half years' imprisonment with credit for eight days of time served. (Tr.p.1; p.252-p.253; Indictment & Sentence Order). Appellant timely filed a notice of intent to appeal her conviction and sentence and a brief in support of her appeal was filed by Appellate Defender Sarah E. Shipe of the South Carolina Commission on Indigent Defense. This Brief of Respondent now follows.

STATEMENT OF FACTS

Describing the facts as "pretty straightforward," the solicitor summarized the State's case in his opening statement. He explained that Appellant had been charged with trafficking meth after the police discovered a large amount of the drug while searching her vehicle during a traffic stop on January 5, 2022. The solicitor said the State's job at trial was to try to prove Appellant's guilt beyond a reasonable doubt, and noted it would call four witnesses in an attempt to do so: the investigator who initiated the traffic stop, the investigator who found the suspected meth during the search of Appellant's car, the evidence technician who received and preserved the seized substance for trial, and the forensic analyst from The South Carolina Law Enforcement Division (SLED) who tested the substance. The solicitor asked the jurors to use their common

sense if they were confronted with any possible defense theories suggesting the whole thing was a setup or some sort of illusion, and to instead find that Appellant did in fact possess a large amount of meth. (Tr.p.104-p.106).

In Appellant's opening statement, counsel asked the jurors to focus on the State's burden of proof and their exclusive duty to determine the facts, and to use their experience and common sense when determining those facts. Counsel claimed that by the end of the case, after considering all the evidence, the jury would see that it merely suggested Appellant was in possession of the meth, but that the State had not met its high burden of proof. (Tr.p.106-p.110).

Pretrial Proceedings

On the afternoon of May 19, 2025, after the call of the case for trial, the trial court convened a hearing to address several pretrial matters, including: (1) placing Appellant's rejection of a plea offer on the record; (2) discussing whether there was a need for a *Jackson v. Denno* hearing; (3) noting the State's compliance with defense discovery requests; (4) discussing scheduling; (5) discussing a possible stipulation regarding the chain of custody; (6) discussing the admission of redacted video evidence; and (7) discussing whether Appellant had any prior convictions which could be used for impeachment. (Tr.p.1-p.15).

The trial court then held a hearing on Appellant's motion to suppress the drug evidence found in her truck. In an effort to support the constitutionality of the warrantless search, the State called the Lancaster County Sheriff's Office (LCSO) narcotics investigator who initiated the traffic stop, Preston Davis, to the stand. At the time of trial, Davis had been a deputy for seven years and had worked on the drug task force for five years. In regard to the incident at issue, he explained that law enforcement had previously received an online Crime Stoppers tip that a man named Charlie Outen was selling narcotics from a specific address in Lancaster

County—1xxx High Point Circle. Based on the tip, they began a surveillance operation of that address. On the night of January 5, 2022, they saw a green Dodge pickup truck parked in the driveway, a vehicle Davis testified he had previously seen at the house multiple times during their operation. That night, however, was the first time Davis saw the truck drive away, so he began following it down the Great Falls Highway. When the truck braked for a traffic light, he noticed the top brake light on the cab of the truck was not functioning. Davis activated his blue lights to make a traffic stop. The truck attempted to pull into the parking lot of a paint and body shop; however, instead of pulling in on either side of the semicircle entrance, the truck turned in between the two driveways, jumped over the sidewalk, and went down a "steep hill" into the lot. Davis described it as: "an abrasive [sic] move into the parking lot as if they were trying to avoid me."[1] He said this maneuver made him think the driver was either trying to evade him or that they had some type of contraband in the truck. After making the stop, Davis approached the truck and asked Appellant why she had jumped the curb. He said she responded that she was nervous because of the presence of law enforcement. (Tr.p.16-p.20).

Davis testified that because the truck was in an elevated position, higher than he could see into safely, he asked Appellant to get out. He described his own demeanor as calm during the encounter and Appellant's as "obviously nervous." Davis asked Appellant for her driver's license and Appellant said she did not have it. Davis then asked for her name and she said it was Blair McNaughton. Davis asked if she had anything in the vehicle to confirm this name, and Appellant produced a debit or credit card that had the name Jennifer McNaughton. Davis testified he then asked for consent to search the truck. He said Appellant consented and while he

[1] Consistent with the observation made by Appellant in footnote 1 of her Brief, the State agrees that any transcript reference to the word "abrasive" is a typo and that Davis actually used the term "evasive" throughout the incident and while testifying at trial.

went to get his "warning book" from his car to write a ticket for the brake light, Investigator Hammond began searching. Shortly after starting the search, Hammond advised Davis he had located narcotics in Appellant's truck. In regard to Appellant's consent, Davis testified that Appellant's specific response when he asked if they could search was something along the lines of: "I don't want you to, but you can." After Hammond discovered the drugs, Appellant was arrested. When she was then asked what kind of drugs they might be, Appellant said she was not sure, but it was probably meth. Davis said the whole encounter lasted five to ten minutes. (Tr.p.20-p.24).

On cross-examination, Davis clarified that he and Investigator Lockhart were the first two officers on the scene and that each had arrived in a separate, unmarked, narcotics car, which meant there were no dashboard cameras or recordings of the incident until they activated their body-worn cameras after the stop. Davis explained that Hammond and Investigator Williamson arrived a little later and acknowledged he had not seen any drugs in plain sight when he looked into the truck during his initial interactions with Appellant. Davis also acknowledged that Appellant never admitted the drugs were hers and instead claimed they may have been planted on her. Davis testified that after Appellant was taken into custody the officers learned her driver's license was suspended. (Tr.p.24-p.36).

On redirect, Davis testified that less than a minute passed between Appellant saying no to the search and then changing her answer to yes. Davis was then questioned by the trial judge. He testified that prior to the incident he had experience with Outen, including having made prior arrests for Outen's possession of narcotics. Davis further testified that law enforcement had conducted previous surveillance on the particular house in question before the night of the incident. Davis testified he believed he had a reasonable suspicion of criminal activity that night

based on: (1) the Crime Stoppers tip of narcotics being sold from the house; (2) Appellant driving away from the house during their ongoing surveillance operation; (3) Appellant's evasive move into the parking lot when she was pulled over; (4) and Appellant's visibly nervous behavior when they talked, which he described as being "a different nervous than a normal nervous for a traffic stop." Davis further testified that Appellant continued her nervous behavior during the stop, which included looking to the truck and back to him while telling him there was not anything illegal inside. (Tr.p.37-p.43). The trial court took the matter under advisement, and the parties went forward with jury qualification and selection. (Tr.p.48-p.83).

The following morning, the trial court noted there had been a discussion in chambers about Appellant's motion to suppress and provided the parties the opportunity to put their arguments on the record before announcing a ruling. First, Appellant acknowledged the trial judge had watched the three body-worn camera videos from the scene.[2] Then, relying primarily on *State v. Frasier*, 437 S.C. 625, 879 S.E.2d 762 (2022), Appellant argued the police had unconstitutionally prolonged the scope of her initial traffic stop without reasonable suspicion that criminal activity was afoot. She contended that nervousness in-and-of-itself was not enough and that simply because her nervousness caused her to miss the parking lot entry and drive over the curb was not sufficient to justify extending the stop, particularly where the officers did not see anything suspicious in plain view. Appellant argued this was simply a drug stop masquerading as a traffic stop and that the drugs should be suppressed because the officers had no reasonable articulable suspicion other than nervousness. Appellant discounted the fact that she was observed driving away from a house that had been reported to Crime Stoppers as a suspected

[2] A flash drive containing the video recordings from the body-worn cameras worn by Investigators Davis, Hammond, and Lockhart was marked as Court's Exhibit 1 for purposes of considering Appellant's motion to suppress. (Tr.p.98-p.99).

drug dealer, arguing that because the police were specifically looking for Outen and not her, the surveillance itself did not help the State's case. (Tr.p.85-p.88).

As to consent, Appellant argued that by first saying she did *not* want the officers to search her truck, this "qualifie[d] her consent," and that her subsequent statement that they *could* search, was rendered involuntary. She contended that, similar to the standard for invoking one's right to counsel under the Sixth Amendment, the waiver of Fourth Amendment rights should only be considered valid where it is unambiguous and unequivocal, which was not the case here. Appellant also noted she was surrounded by blue lights and several plain-clothes officers,[3] all of which would have made a person feel like they could not say no to a search request. (Tr.p.88-p.89; p.94).

Relying primarily on *State v. Corley*, 383 S.C. 232, 679 S.E.2d 187 (Ct. App. 2009), *aff'd as modified*, 392 S.C. 125, 708 S.E.2d 217 (2011), the solicitor responded by arguing: (1) the stop "was not prolonged in any way" and (2) that even if it was prolonged, any extension in the valid traffic stop was justified by officer Davis's reasonable suspicion that drug activity was afoot. The solicitor further argued that, under the totality of the circumstances, Appellant was not under duress or coercion when she agreed to the search request, and therefore gave free and voluntary consent to the search of her truck and its contents. He noted there were mere seconds between Appellant's initial statement of reluctance and her subsequent agreement to allow the search, and that Appellant was able to receive phone calls during the course of the stop. (Tr.p.90-p.95).

[3] The videos from the incident show that while the narcotics investigators were not dressed as uniformed officers, at least the two who were talking to Appellant when she gave consent, Davis and Lockhart, were wearing badges and clothing that clearly identified them as being with the Sheriff's Office.

The trial court then made its ruling—stating that although this was "a close case," it was one that was sufficiently different from *Frazier* so as to warrant denying Appellant's motion to suppress. The trial court first concluded that the police *did* have reasonable suspicion of criminal activity to prolong the traffic stop in this case.[4] It relied on the following circumstances: (1) the Crime Stoppers tip about drugs being sold from this house; (2) the ongoing surveillance of the known drug house, including surveillance prior to the day in question; (3) Appellant's manner of driving when she was pulled over, which the officer believed was evasive; (4) Appellant demonstrating a different level of nervousness than a typical person who has been stopped; and (5) the way Appellant was "constantly looking at or around her car" during the stop. The trial court also concluded that Appellant's consent to search was voluntarily made, with no force or coercion despite the presence of blue lights and multiple officers. It noted that where Appellant changed from saying she would "rather you not [search]" to "I guess you can [search]" a few seconds later, there was enough voluntariness to find consent. Based on these findings, the trial court denied the motion to suppress. (Tr.p.95-p.97).

Trial

After denying Appellant's motion to suppress, the jury was sworn, the trial court gave brief preliminary jury instructions, the parties made opening statements, and the case proceeded to trial. (Tr.p.99-p.109). As promised in its opening statement, the State presented testimony from four witnesses. First, Investigator Davis described the traffic stop, the search, and the arrest in similar detail as he did during the suppression hearing. He also made an in-court

[4] Although the trial court did not rule on the State's contention, as argued in more detail below, that the entire detention was reasonable under the circumstances of the lawful traffic stop and therefore did not constitute an extension or prolonging of the stop for Fourth Amendment purposes, this is an additional ground in the record on which this Court could affirm the denial of Appellant's motion to suppress. 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.").

identification of Appellant and authenticated the video recording from his body-worn camera. A clipped copy of that video was admitted without objection as State's Exhibit 2 – "BWC Video A" and was played for the jury. Davis testified the suspected drugs found in Appellant's truck were field-tested, which returned a positive result for meth. (Tr.p.110-p.132).

Second, LCSO Investigator Khory Hammond took the stand. Hammond described his consent search of Appellant's vehicle during which he found a pocketbook containing a small coin purse which contained two baggies of suspected meth, all within a matter of minutes of starting the search. He secured the evidence and returned to his office where he field-tested the substance and weighed it before placing it in a BEST evidence kit and sealing it for transfer to the evidence custodian. Hammond authenticated the video recording from his body-worn camera and a clipped copy was admitted into evidence without objection as State's Exhibit 2 – "BWC Video B," and was played for the jury. (Tr.p.132-p.143).[5]

Third, LCSO evidence custodian Ann Horton explained how she had received, preserved, and transported the evidence to SLED for testing. (Tr.p.143-p.149). Finally, SLED forensic analyst Willie C. Smith, III, was admitted without objection as an expert in drug analysis. He did chemical and instrumental tests on the crystalline substance in the larger of the two baggies seized from Appellant's truck. Smith testified his testing confirmed that substance was methamphetamine with a weight of 13.09 grams, and that where the second baggie only weighed .31 grams, he saw no need for further testing due to the statutory threshold of 10 grams having already been crossed. The drugs were admitted into evidence as State's Exhibit 3 and Smith's report was admitted into evidence as State's Exhibit 4, both subject to Appellant's objection based on his pretrial motion to suppress. (Tr.p.150-p.164).

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[5] The video recording from Lockhart's body-worn camera was included in Court's Exhibit 1 at the suppression hearing but was not introduced into evidence at trial.

At the conclusion of Smith's testimony, the State rested. Appellant moved for a directed verdict and that motion was denied. The trial court then questioned Appellant regarding her right to testify. Appellant's counsel asked if he could discuss the decision with Appellant overnight and that request was granted. (Tr.p.165-p.175). The following morning, Appellant advised the Court that she had decided to testify in her own defense and she took the stand. Appellant was allowed to offer: (1) what amounted to her own narration of the incident, (2) her claim she had no knowledge the meth was in her truck, and (3) her theory that it may have been planted in her coin purse by Outen, either as revenge for her history of reporting his abuse of her to the police, or as a scheme that would allow him to keep the house they shared rather than having to move out and let her stay in the house. (Tr.,p.177-p.205). At the conclusion of her testimony, Appellant rested. Appellant renewed her directed verdict motion and renewed all previous objections. The motion and objections were all denied, and the parties proceeded to closing arguments. (Tr.p.205-p.207).

During the State's close, the solicitor first described the relevant law that would be charged by the trial judge, focusing on: (1) the elements of the crime, including the concepts of constructive possession and mere presence; (2) reasonable doubt; (3) direct and circumstantial evidence; (4) criminal intent; and (5) witness credibility. The solicitor then summarized the evidence elicited from the four witnesses presented by the State as well as the testimony offered by Appellant before asking the jurors to use their common sense to conclude she was guilty of trafficking meth beyond a reasonable doubt. (Tr.p.207-p.215; p.222-p.225). In Appellant's closing argument, she contended that for something to be proven beyond a reasonable doubt, there must be no other reasonable explanation for what happened. She then asked the jurors to

focus on their duty to decide credibility and what to believe, and to find her not guilty because she had no knowledge of the drugs and instead was merely present. (Tr.p.215-p.222).

The trial court then charged the jury on the law. It explained that the indictment was not evidence and then charged the jury on: the burden of proof, the presumption of innocence, reasonable doubt, the respective duties of the judge and jury, direct and circumstantial evidence, credibility of witnesses, criminal intent, and the elements of the offenses. (Tr.p.225-p.235). After asking to re-watch the clipped videos that had been introduced into evidence, the jury watched those videos, deliberated, and ultimately found Appellant guilty as indicted. Judge Hocker imposed a sentence of three-and-a-half years' imprisonment and a fine of $25,000. (Tr.p.1; p.252-p.253; Indictment & Sentence Order).

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. *State v. Robinson*, 426 S.C. 579, 591, 828 S.E.2d 203, 209 (2019); *State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001); *State v. Holcomb*, 426 S.C. 557, 562, 827 S.E.2d 367, 370 (Ct. App. 2019). The appellate court is bound by the trial court's factual findings unless they are clearly erroneous. *State v. Brown*, 402 S.C. 119, 124, 740 S.E.2d 493, 495 (2013); *State v. Baccus*, 367 S.C. 41,48, 625 S.E.2d. 216, 220 (2006). The appellate court does not re-evaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial judge's ruling is supported by any evidence. *Wilson,* 345 S.C. at 6, 545 S.E.2d at 829. An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. *State v. Black*, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012); *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006).

Appellate review of a motion to suppress based on the Fourth Amendment involves a two-step analysis. *Frasier*, 437 S.C. at 633, 879 S.E.2d at 766. This dual inquiry means the appellate court reviews the trial court's factual findings for any evidentiary support, but the ultimate legal conclusion is a question of law subject to de novo review. *Id.* at 633-34, 879 S.E.2d at 766.

ARGUMENT

I.

The trial court properly denied Appellant's motion to suppress drug evidence discovered during the warrantless search of her truck at a lawful traffic stop because: (1) the initial detention continued only for the period necessary to complete the investigation and conduct the relevant inquiries incident to the stop; (2) even if the initial stop somehow extended into a second detention, the police developed reasonable suspicion of criminal activity to justify briefly extending the length of the traffic stop; and (3) Appellant freely and voluntarily consented to the search of her truck before the end of her constitutionally valid detention.

Appellant argues the trial court erred in denying her motion to suppress drug evidence found during the warrantless search of her truck. She contends the search violated the Fourth Amendment because: (1) no exceptions to the warrant requirement applied where the officers lacked reasonable suspicion to prolong the traffic stop for a minor traffic violation and (2) her consent to search was not voluntary where it was given when she was surrounded by four narcotics officers in the dark. (Brief of Appellant, p.8-p.14). The State disagrees and submits Appellant's argument is without merit.

First, the initial detention, which lasted until Appellant gave consent to search, was reasonable and did not constitute prolonging or extending the lawful traffic stop because it continued only for the period necessary to complete the investigation and conduct the relevant

inquiries incident to the stop. Second, even if the initial stop somehow extended into a second detention, it was objectively reasonable under the totality of the circumstances because the police had developed reasonable suspicion of criminal activity to justify briefly extending the length of the initial traffic stop. Third, under the totality of the circumstances, Appellant freely and voluntarily consented to the search of her truck where her express consent was not contested by contradictory testimony at the suppression hearing. Under the standard of review, the trial court's factual findings had ample evidentiary support in the record and its legal conclusions were not controlled by any errors of law. The trial court's decision to deny Appellant's motion to suppress and Appellant's resulting conviction should be affirmed, for all of the reasons discussed below.

A. Search and Seizure – Warrant Requirement

Both the United States Constitution and the South Carolina Constitution prohibit unreasonable searches and seizures. U.S. Const. amend. IV; S.C. Const. art. I, § 10. A search compromises the individual's interest in privacy; a seizure deprives the individual of dominion over his or her person or property. *State v. Brown*, 401 S.C. 82, 88, 736 S.E.2d 262, 266 (2012); *State v. Wright,* 391 S.C. 436, 442, 706 S.E.2d 324, 327 (2011) (quoting *Horton v. California,* 496 U.S. 128, 133 (1990)). A person has been seized within the meaning of the Fourth Amendment at the point in time when, in light of all the circumstances surrounding an incident, a reasonable person would have believed that he was not free to leave. *Frasier*, 437 S.C. at 634, 879 S.E.2d at 767 (quoting *Robinson v. State*, 407 S.C. 169, 181, 754 S.E.2d 862, 868 (2014)). For constitutional purposes, a search occurs when "an expectation of privacy that society is prepared to consider reasonable is infringed." *United States v. Jacobsen*, 466 U.S. 109, 113 (1984).

Warrantless searches and seizures are unreasonable absent a recognized exception to the warrant requirement. *Brown*, 401 S.C. at 89, 736 S.E.2d at 266; *Wright,* 391 S.C. at 442, 706 S.E.2d at 327. *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."). These exceptions include the following: (1) search incident to a lawful arrest, (2) hot pursuit, (3) stop and frisk, (4) automobile exception, (5) the plain view doctrine, (6) consent, (7) abandonment, and (8) exigent circumstances. *Brown*, 401 S.C. at 89, 736 S.E.2d at 266; *State v. Dupree,* 319 S.C. 454, 456, 462 S.E.2d 279, 287 (1995); *State v. Moore,* 377 S.C. 299, 309, 659 S.E.2d 256, 261 (Ct. App. 2008); *see State v. Herring*, 387 S.C. 201, 209, 692 S.E.2d 490, 494 (2009) ("A fairly perceived need to act on the spot may justify entry and search under the exigent circumstances exception to the warrant requirement.").

B. The Exclusionary Rule

The Fourth Amendment itself provides no remedy for a violation of the warrant requirement. *Davis v. United States,* 564 U.S. 229, 230-31 (2011). However, the United States Supreme Court has fashioned a judicially created remedy, the exclusionary rule, which is a deterrent sanction by which the prosecution is barred from introducing evidence obtained in violation of the Fourth Amendment. *Id.* at 231-32; *Brown*, 401 S.C. at 88, 736 S.E.2d at 266. Generally speaking, any evidence seized as the result of an unreasonable search and seizure must be excluded from trial. *State v. Weaver*, 374 S.C. 313, 319, 649 S.E.2d 479, 482 (2007).

C. Lawful Traffic Stop – Not Prolonged

For Fourth Amendment purposes, a traffic stop of a vehicle, along with the detention of individuals during the stop, constitutes a seizure. *State v. Maybank*, 352 S.C. 310, 315, 573 S.E.2d 851, 854 (Ct. App. 2002). The reasonableness of a stop or detention "is measured in

objective terms by examining the totality of the circumstances." *Ohio v. Robinette*, 519 U.S. 33, 39 (1996). While the relevant constitutional provisions require a stop to be reasonable under the circumstances, the initiation of an automobile stop 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."); *see also Whren v. United States*, 517 U.S. 806, 810 (1996) ("An automobile stop is thus subject to the constitutional imperative that it not be 'unreasonable' under the circumstances. As a general mater, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.").

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, 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."). A 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. An officer can 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 Rodriguez*, 575 U.S. at 355 ("An officer . . . may conduct certain unrelated checks during an otherwise lawful traffic stop."); *see also Muehler v. Mena*, 544 U.S. 93, 100-101 (2005) (instructing additional questioning during a detention unrelated to the original purpose of the detention does not constitute an additional seizure or independent constitutional violation).

The videos from Davis's and Lockhart's body-worn cameras substantially overlap and show their interaction with Appellant from two different angles. They show that here, Davis—almost immediately after validly stopping Appellant for committing a traffic infraction he personally witnessed—discovered Appellant, who was the only person inside her vehicle, did not have a driver's license—valid or otherwise—and, thus, could *not* lawfully operate her vehicle on a South Carolina roadway in any manner.[6] *See* S.C. Code Ann. § 56-1-20 (2022) ("No person, except those expressly exempted in this article shall drive any motor vehicle upon a highway in this State unless such person has a valid motor vehicle driver's license issued to him under the provisions of this article."); S.C. Code Ann. § 56-1-190 (2022) ("A licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display it upon demand of an officer . . . ."). After learning Appellant did not have a driver's license in her possession, Davis proceeded to question Appellant for a few minutes while *simultaneously* attempting to verify her identity before preparing a warning citation for the infraction he had observed. Less than four minutes after first stopping Appellant's vehicle Davis explained the reason for the stop to Appellant (Lockhart BWC 3:27-3:37; Davis BWC 3:19-3:29) and within the next minute, after Davis and Lockhart explained the legal requirement that all brake lights on a vehicle must work (Lockhart BWC 3:37-4:01; Davis BWC 3:29-3:53), Davis asked for—and obtained—consent for a search (Lockhart BWC 4:01-4:30; Davis BWC 3:53-4:22), which meant the officer was able to obtain consent from Appellant during a period of time consistent with the

[6] Although Appellant is not challenging the propriety of the stop on appeal, it was unquestionably proper in light of the fact it was only initiated after Davis saw Appellant commit a traffic infraction. *See State v. Nelson*, 336 S.C. 186, 193, 519 S.E.2d 786, 789 (1999) ("As a general matter, the decision to stop an automobile is reasonable where police have probable cause to believe that a traffic violation has occurred."); *see also* S.C. Code Ann. § 56-5-4450 (A) (2022) ("Every vehicle upon a street or highway within this State shall display lighted lamps and illuminating devices, excluding parking lights, from a half hour after sunset to a half hour before sunrise . . . ."); S.C. Code Ann. § 56-5-4730 (2) (2022) ("When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition.").

time reasonably required to complete an ordinary and routine stop. *See State v. Provet*, 391 S.C. 494, 499, 706 S.E.2d 513, 516 (Ct. App. 2011) (finding a traffic stop was not unreasonably extended even if the officer's questioning was unrelated to the purpose of the traffic stop where the entire stop lasted less than eleven minutes), *aff'd*, 405 S.C. 101, 747 S.E.2d 453 (2013); *see also United States v. Sharpe*, 470 U.S. 675, 683 (1985) (concluding a twenty-minute detention during an investigatory traffic stop was objectively reasonable); *United States v. Jeffus*, 22 F.3d 554, 557 (4th Cir. 1994) (finding a fifteen-minute traffic stop to be reasonable).

At the point in time he asked for consent, Davis had done nothing to unreasonably prolong the stop beyond the time necessary to complete its mission along with the ordinary inquiries that were permitted because any off-topic questioning he conducted was *simultaneous with* Lockhart asking dispatch to run a computer check and Davis's preparation of the warning citation. *See Rodriguez*, 575 U.S. at 355 (recognizing a lawful stop does not become unlawful due to an officer asking inquires unrelated to the stop's purpose if those inquires do not measurably extend the stop's duration). Indeed, when consent was given, Davis had not yet retrieved his warning book or issued the citation. Moreover, as soon as he learned Appellant did not have a driver's license towards the outset of the stop, Davis was aware of a crucial fact that prevented him from releasing Appellant—and, particularly, her vehicle—*even had* he finished preparing the warning citation, because Appellant simply could not lawfully drive her vehicle away from the scene due to her lack of a valid license. *See Kothe v. State*, 152 S.W.3d 54, 63-64 (Tex. Crim. App. 2004) (recognizing the initial purpose of a traffic stop is not fully resolved *until* the officer has checked the driver's information *and* "knows that this driver has a currently valid license, no outstanding warrants, and the car is not stolen"); *see also United States v. Vargas*, 848 F.3d 971, 974 (11th Cir. 2017) ("The fact that [the officer] had earlier informed [the driver]

that he was issuing a warning is irrelevant. Under state law [the officer] had a duty not to allow [the driver] or Vargas, who were unlicensed, to drive the vehicle. Preventing them from driving off without a license is lawful enforcement of the law, not unlawful detention.").

Furthermore, the body-worn camera videos seem to provide an additional reason the investigators could not lawfully allow Appellant to drive away—the driver's license she did not physically possess but claimed to have, was suspended. As noted above, the videos from Davis and Lockhart show their interaction with Appellant from two different angles. Notably, in each video, you can hear portions of Lockhart's radio conversation with "dispatch," during which Lockhart seeks information about Appellant and her driver status based on running her full name and birthdate through the computer. (Lockhart BWC 2:29-2:51 & 4:53-5:10; Davis BWC 2:27-2:42 & 4:45-5:02). The search of Appellant's truck and the discovery of the drugs occur sometime between the request for information and the response from dispatch—which means the ordinary inquiries associated with a traffic stop had not yet been resolved. In addition, although not entirely clear due to overtalk, after Lockhart says: "Go ahead," the dispatcher seems to say: "Jennifer Blair McNaughton, 1xxx High Point Circle, Lancaster County, license would be, suspended disqualified, for a, a car accident . . . ." (Lockhart BWC 4:53-5:10 & Davis BWC 4:45-5:02). The fact that Appellant was driving with a suspended license—a fact that was not contested by Appellant at the suppression hearing (Tr.p.36, lines 10-24)—provides yet another reason the stop was not unreasonable or prolonged.

In her Brief, Appellant argues "everyone agreed the stop was prolonged." (Brief of Appellant, p.9). But, the solicitor clearly argued at the suppression hearing that the stop "was not prolonged in any way." (Tr.p.91). Based on all of these circumstances present here, it is abundantly clear that Investigator Davis did not unreasonably prolong the stop through his

questioning of Appellant, and that the stop had not yet ended at the time he requested consent from Appellant because he still had a need to control the scene in light of the fact no licensed drivers were present—aside from the investigators themselves—who could validly operate Appellant's vehicle. *See Vargas*, 848 F.3d at 974 (concluding the mission of a traffic stop had not been completed by the time the officer obtained consent to search the vehicle because neither the vehicle's driver nor passenger had licenses and, therefore, the officer was lawfully permitted to continue the detention since the officer had a duty to enforce "the law requiring that any person driving a vehicle be licensed to do so"); *see also Johnson*, 555 U.S. at 333 (explaining the typical ending point of a stop is "when the police have no further need to control the scene"). Accordingly, the trial judge properly declined to suppress the meth found inside Appellant's vehicle because Davis did not extend the stop prior to obtaining Appellant's consent. The denial of Appellant's motion to suppress and her convictions may be affirmed on this basis alone. Rule 220(c), SCACR.

D. Reasonable Suspicion of Criminal Activity

A valid detention pursuant to a valid traffic stop: "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."). However, a further detention extending the scope of a traffic stop beyond its original purpose is not automatically unconstitutional. *Pichardo*, 367 S.C. at 99, 623 S.E.2d at 848. Instead, such a detention is lawful and permissible where: (1) the officer possesses reasonable articulable suspicion of other illegal activity based on the totality of the circumstances; or (2) the traffic stop becomes a consensual encounter. *Id.*; *see Illinois v.*

Wardlow, 528 U.S. 119, 123 (2000) (explaining the reasonable suspicion standard "is a less demanding standard than probable cause" and simply requires a showing of "a minimal level of objective justification" in order to be established).

In order to prolong or exceed the scope of the stop beyond the initial traffic violation, law enforcement must have reasonable suspicion that criminal activity may be afoot. *Id.* Indeed, "a minor traffic violation arrest will not be rendered invalid by the fact it was a 'mere pretext for a narcotics search.'" *Corley*, 383 S.C. at 240, 679 S.E.2d at 191- 92 (citations omitted). "Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis." *Whren v. United States*, 517 U.S. 806, 813 (1996); *see also Provet*, 405 S.C. at 108, 747 S.E.2d at 457 (noting the officer's subjective motivations are irrelevant to the analysis). Reasonable suspicion consists of "'a particularized and objective basis' that would lead one to suspect another of criminal activity." *State v. Lesley*, 326 S.C. 641, 644, 486 S.E.2d 276, 277 (Ct. App. 1997) (quoting *United States v. Cortez*, 449 U.S. 411, 417 (1981)); see *United States v. Arvizu*, 534 U.S. 266, 273 (2002) ("[T]he Fourth Amendment is satisfied if the officer's action is supported by reasonable suspicion to believe that criminal activity 'may be afoot'."). "Reasonable suspicion does not entail a set of legal rules, but 'entails common sense, nontechnical conceptions that deal with factual and practical considerations of everyday life on which reasonable and prudent persons, not legal technicians, act.'" *State v. Morris*, 411 S.C. 571, 578, 769 S.E.2d 854, 858 (2015); *United States v. Foreman*, 369 F.3d 776, 781 (4th Cir. 2004). "In this highly fact-specific inquiry, reasonable suspicion 'is a fluid concept which takes its substantive content from the particular context in which the standard is being assessed.'" *State v. Wallace*, 392 S.C. 47, 51-52, 707 S.E.2d 451, 453 (Ct. App. 2011) (quoting *Foreman*, 369 F.3d at 781).

Although reasonable suspicion is not susceptible to a rigid, formulaic approach, it requires more than a mere hunch or unparticularized suspicion. *Frasier*, 437 S.C. at 635, 879 S.E.2d at 767. In other words, for an officer to have reasonable suspicion, there must be an objective, specific basis for suspecting the person stopped of criminal activity. *Id.* "While reasonable suspicion is not a high bar and is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence, the Fourth Amendment requires at least a minimal level of objective justification for making the stop." *Id.* (quoting *Illinois v. Wardlaw*, 528 U.S. 119, 123 (2000)). This inquiry involves the totality of the circumstances, and courts must give due weight to common sense judgments reached by officers in light of their experience and training. *Id.*

In order for an officer to have reasonable suspicion regarding the presence of illegal drugs, the officer is required to have a particularized and objective basis arising from the totality of the circumstances that would lead an individual to suspect drugs are located in a lawfully stopped vehicle. *State v. Banda*, 371 S.C. 245, 254 n.4, 639 S.E.2d 36, 41 n.4 (2006). In reviewing the totality of the circumstances, the individual factors of the traffic stop must not be considered piecemeal or in isolation. *See Branch*, 537 F.3d at 337 ("Courts must look at the 'cumulative information available' to the officer... and not find a stop unjustified based merely on a 'piecemeal refutation of each individual' fact and inference[.]" (citations omitted)). Instead, all of the circumstances of the stop, including the officer's own experience and specialized training, must be considered as a whole to determine whether the office's actions were reasonable in light of all of the information available to him at the time. *See United States v. Mason*, 628 F.3d 123, 129 (4th Cir. 2010) ("[J]ust as one corner of a picture might not reveal the picture's subject or nature, each component that contributes to reasonable suspicion might not

alone give rise to reasonable suspicion."). "In applying the concept of reasonable suspicion to the various facts of a case, '[i]t is the entire mosaic that counts, not single tiles.'" *Wallace*, 392 S.C. at 52, 707 S.E.2d at 453 (quoting *United States v. Whitehead*, 849 F.2d 849, 858 (4th Cir. 1988)).

Here, even if the initial stop had somehow been extended into a second detention under the circumstances involved, Davis—just as the trial judge correctly recognized—nonetheless possessed reasonable articulable suspicion of criminal activity that would have permitted him to do so in light of the indicators of criminal activity he already knew or detected during the course of the stop, which included: (1) the Crime Stoppers tip about drugs being sold from the house she drove away from; (2) the ongoing surveillance of this known drug house, including surveillance prior to the day in question; (3) Appellant's manner of driving when she was pulled over, which the officer believed was evasive; (4) Appellant not having a driver's license in her possession as required by law; (5) Appellant demonstrating a different level of nervousness than a typical person who has been stopped; and (6) the way Appellant was "constantly looking at or around her car" during the stop. *See United States v. Figueroa-Espana*, 511 F.3d 696, 703 (7th Cir. 2007) (holding the fact the driver "failed to provide a valid driver's license or vehicle registration" during the course of a properly-initiated traffic stop to be a factor justifying an extension of the stop); *State v. Corley*, 392 S.C. 125, 127, 708 S.E.2d 217, 218 (2011) (concluding the fact a vehicle left a residence connected to drug activity to be a pertinent factor in a reasonable suspicion analysis); *cf. Terry v. Ohio*, 392 U.S. 1, 28 (1968) (holding an officer's actions in effectuating a detention and frisk search were constitutionally reasonable because they were not "the product of a volatile or inventive imagination" or "undertaken simply as an act of harassment" and, instead, were reasonably tempered based on the officer observing Terry and his

confederate repeatedly walk by and look in a store window in a manner that appeared suggestive of criminal activity to the officer).

Appellant argues: "it defies logic to purport that [Appellant] pulling into a parking lot at normal speed after seeing blue lights behind her was an evasive driving maneuver." (Brief of Appellant, p.11). However, the only evidence presented at the suppression hearing was that Appellant did not simply pull into a parking lot at normal speed. Instead, she missed two possible entries to the parking lot, jumped the sidewalk, and went down a steep hill before coming to a stop. As accurately described by Davis, this could be interpreted as an evasive move, "as if they were trying to avoid me." (Tr.p.19, line 24-p.20, line 16). Appellant also argues the officers did not have a reasonable suspicion to prolong the traffic stop due to the brake light being out where "it should have been a simple stop and issue a ticket." (Brief of Appellant, p.11). Yet, as explained in detail above, this was not a case of Davis being able to make a "simple stop and issue a ticket," when Appellant did not have a driver's license in her possession, Appellant initially identified herself by her middle name, and the officers eventually learned Appellant's license had been suspended. [7] The denial of Appellant's motion to suppress and her convictions should be affirmed.

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[7] The purpose of the exclusionary rule is to deter law enforcement officers from committing Fourth Amendment violations. *Davis*, 564 U.S. at 236–37, 131 S.Ct. 2419. As a result, when suppression will fail to yield "appreciable deterrence," exclusion is clearly unwarranted. *Id.* at 237, 131 S.Ct. 2419 (quoting *United States v. Janis*, 428 U.S. 433, 454, 96 S.Ct. 3021, 49 L.Ed.2d 1046 (1976)). "To that end, courts have recognized several exceptions to the exclusionary rule," including, among others, the independent source doctrine, inevitable discovery, and good-faith reliance. *See State v. Adams*, 409 S.C. 641, 647 & n.3, 763 S.E.2d 341, 345 & n.3 (2014) (collecting cases). *State v. Moore*, 429 S.C. 465, 478, 839 S.E.2d 882, 889 (2020). "[T]he inevitable discovery doctrine provides that illegally obtained information may nevertheless be admissible if the prosecution can establish by a preponderance of the evidence that the information would have ultimately been discovered by lawful means." *State v. Cardwell*, 425 S.C. 595, 601, 824 S.E.2d 451, 454 (2019) (citing *Nix v. Williams*, 467 U.S. 431, 444, 104 S.Ct. 2501, 81 L.Ed.2d 377 (1984)); *Moore*, 429 S.C. at 481, 839 S.E.2d at 890. Here, where Appellant was driving with a suspended license, the investigators: would not have allowed her to drive, would have conducted a lawful inventory search of her truck, and would have inevitably discovered the meth in that truck. Thus, even if the stop and search was somehow unconstitutional, exclusion was not warranted.

E. Free and Voluntary Consent

One of the recognized exceptions to the warrant requirement is the consent exception. *See Birchfield v. North Dakota*, 579 U.S. 438, 476 (2016) ("It is well established that a search is reasonable when the subject consents[.]"). Pursuant to the consent exception, an officer can validly conduct a warrantless search of a constitutionally-protected area when he or she receives free and voluntary consent. *See State v. Adams*, 377 S.C. 334, 339, 659 S.E.2d 272, 275 (Ct. App. 2008) (holding warrantless searches and seizures are constitutionally permissible when conducted under the authority of voluntary consent). Whether consent to search was voluntary or the product of duress or coercion, express or implied, is a question of fact to be determined from the totality of the circumstances. *State v. Wallace,* 269 S.C. 547, 550, 238 S.E.2d 675, 676 (1977); *State v. Mattison*, 352 S.C. 577, 584, 575 S.E.2d 852, 855 (Ct. App. 2003). The State bears the burden of establishing the voluntariness of the consent. *Schneckloth v. Bustamonte,* 412 U.S. 218 (1973); *Mattison*, 352 S.C. at 584, 575 S.E.2d at 855. The "totality of the circumstances" test applies whether the consent was given in a non-custodial or custodial situation. *Wallace,* 269 S.C. at 550, 238 S.E.2d at 676; *Mattison*, 352 S.C. at 584, 575 S.E.2d at 855. In a custodial situation, the custodial setting is a factor to be considered in determining whether consent was voluntarily given. *Wallace,* 269 S.C. at 552, 238 S.E.2d at 677; *Mattison*, 352 S.C. at 584, 575 S.E.2d at 855. Custody alone, however, is not enough in itself to demonstrate a coerced consent to search. *Mattison*, 352 S.C. at 584, 575 S.E.2d at 855; *State v. Brannon,* 347 S.C. 85, 90, 552 S.E.2d 773, 775 (Ct. App. 2001).

Factors to be considered when determining whether consent was validly provided include the characteristics of the individual providing consent, which include the individual's age, maturity, education, intelligence, and experience, and the conditions under which the consent

was granted, which include 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). Significantly, the State bears the burden of establishing the voluntariness of consent, which is a question of fact to be determined from the circumstances. *Pichardo*, 367 S.C. at 105, 623 S.E.2d at 851. The issue of voluntary consent, when contested by contradicting testimony, is an issue of credibility to be determined by the trial judge. *Mattison*, 352 S.C. at 584-85, 575 S.E.2d at 856; *State v. Dorce,* 320 S.C. 480, 482, 465 S.E.2d 772, 773 (Ct. App. 1995). 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. *Mattison*, 352 S.C. at 585, 575 S.E.2d at 856; *State v. Rochester,* 301 S.C. 196, 200, 391 S.E.2d 244, 247 (1990) (dealing with voluntariness of a statement); *State v. Greene,* 330 S.C. 551, 557, 499 S.E.2d 817, 820 (Ct. App. 1997).

In the case at bar, Davis requested consent from Appellant before the lawful stop of her vehicle had concluded, and, thus, the consent request was made during a period of time during which Appellant was being lawfully detained.[8] *See Salmeron v. State*, 632 S.E.2d 645, 646 (Ga. 2006) ("If a driver is questioned and gives consent while he is being lawfully detained during a traffic stop, there is no Fourth Amendment violation."); *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."). Significantly, in response to that request, Appellant, who had only been

[8] Davis possessed reasonable suspicion to believe criminal activity was afoot at the time he requested consent based on information known before the stop coupled with the numerous suspicious factors he detected during the course of the yet-to-be-completed stop, and, therefore, he had a basis upon which he could have justifiably continued to detain Appellant even if the initial purpose of the stop had been satisfied. *See Boone*, 245 F.3d at 362 ("If an individual voluntarily consents to a search while justifiably detained on reasonable suspicion, the products of the search are admissible.").

detained for approximately five minutes by that point, unequivocally provided consent in a free and voluntary manner, and nothing suggested she was not of a sufficient age, maturity, or intellect to be able to provide consent. *See 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 custodial arrest to exercise a free choice." (footnote omitted)); *see also 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."). Instead, Appellant's decision to testify in her own defense and trial testimony itself demonstrates she has the maturity and intellect to exercise free choice, even under stressful circumstances.

Also, Davis did not do anything coercive, deceptive, or threatening in order to obtain Appellant's consent before she granted it. *See Salmeron*, 632 S.E.2d at 648 (rejecting the contention Salmeron's consent was involuntary where there was "no evidence that the officer coerced or tricked him into agreeing to a search" when consent was requested during the course of a traffic stop). Although there were four officers at the scene, only two—Davis and Lockhart— engaged Appellant, and they interacted in a calm, conversational tone. In addition, the encounter had only gone on for approximately five minutes when Appellant gave consent. Finally, Appellant placed no express limits on the scope of her consent, and, during the course of the search, she did not expressly attempt to revoke it or engage in any actions that would have reasonably indicated to the deputies her consent had been in any way limited. *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"); *State v. Funderburk*, 367 S.C. 236, 240, 625 S.E.2d 248, 250 (Ct. App. 2006) ("A suspect's failure to object (or withdraw his consent) when an officer exceeds

limits allegedly set by the suspect is a strong indicator that the search was within the proper bounds of the consent search."). Under the totality of the circumstances, the investigators were permitted to conduct a consent-based search of Appellant's vehicle. *See Palacio v. State*, 333 S.C. 506, 514, 511 S.E.2d 62, 66 (1999) ("The constitutional immunity from unreasonable searches and seizures may be waived by valid consent."); *see also Mattison*, 352 S.C. at 587, 575 S.E.2d at 857 ("Effective withdrawal of a consent to search requires unequivocal conduct, in the form of either an act, statement or some combination of the two, that is inconsistent with consent previously given.").

Because the search of Appellant's truck that led to the discovery of her hidden stash of meth was conducted with her own voluntary consent, the trial court properly denied the suppression motion after finding the search was constitutionally proper, and its ruling was fully supported by the testimony and evidence presented during trial. *See Robinette*, 519 U.S. at 39-40 (recognizing an individual does not have to be told they are free to go before that individual can voluntarily provide consent for a search). The denial of Appellant's motion to suppress and her convictions should be affirmed.

CONCLUSION

For all of the foregoing reasons, the State respectfully requests that the trial court's denial of Appellant's motion to suppress, and consequently her conviction and sentence, be affirmed.

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BY:

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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
May 19, 2026

RECEIVED
May 19 2026
SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2025-001041

The State, ...Respondent,

v.

Jennifer Blair McNaughton,..Appellant.

PROOF OF SERVICE

I, Susan Spencer, Legal Assistant, hereby certify that I have served the *Initial Brief of Respondent* and *Designation of Matter*, both dated May 19, 2026, on Appellant by sending an electronic copy via email to Sarah E. Shipe, counsel of record for Appellant, at the address listed for counsel in AIS.

I further certify that all parties required by Rule to be served have been served. This 19th day of May, 2026.

Susan Spencer
Legal Assistant

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