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FEB 19 2015

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**S.C. Supreme Court**

ON WRIT ON CERTIORARI TO THE COURT OF APPEALS  
APPEAL FROM YORK COUNTY  
THE HONORABLE JOHN C. HAYES, III., CIRCUIT COURT JUDGE

Opinion No. 27488 (S.C. filed January 28, 2015)

State of South Carolina,.....Respondent,

v.

Kenneth Darrell Morris, II,.....Petitioner.

**PETITION FOR REHEARING**

Pursuant to Rule 221 (a), SCACR, Petitioner Kenneth Darrell Morris, II, respectfully petitions this Court for a rehearing of Opinion No. 27488, dated January 28, 2015. Petitioner respectfully submits that rehearing is warranted in this case because the Court overlooked or misapprehended Petitioner’s argument.

Standard of Review

Petitioner respectfully contends that the Court misapprehended the standard of review in this case in two ways. First, the scope of review as set forth in Tindall requires the Court to determine whether the record supports the lower courts assumed findings and whether those facts support a finding that the officer had reasonable suspicion or probable cause. State v. Tindall, 388 S.C.518, 698 S.E. 2d 203 (2010).

Second, even using a deferential standard of review, a common sense view of the evidence law enforcement relied upon to search did not rise to the level of reasonable suspicion required to extend the scope and duration of a traffic stop let alone rise to the standard of probable cause to allow the warrantless search of Petitioner's vehicle.

#### Reasonable Suspicion

To determine whether reasonable suspicion exists, an officer, by a totality of the circumstances, must have a "particularized and objective basis for suspecting the particular person stopped of criminal activity." United States v. Cortez, 449 U.S. 411, 417-18 (1981).

Petitioner respectfully submits that the Court either overlooked or misapprehended the fact that as the length of the detention progressed, Officer Vinesett's suspicions should have dissipated because his investigation continuously revealed less and less evidence of any crime related to the use of drugs.

Therefore, under the totality of the circumstances, there was no particularized and objective basis for suspecting the Petitioner of criminal activity.

#### Probable Cause

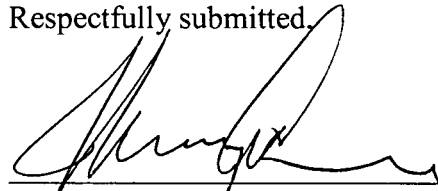
The standard for probable cause to conduct a warrantless search is the same as that for a search with a warrant. The determination of probable cause depends on totality of circumstances. State v. Brannon, 347 S.C. 85, 92, 552 S.E. 2d 773, 776 (Ct. App. 2001).

Petitioner respectfully submits that the Court either overlooked or misapprehended the fact that by the time the officers completed their investigation and search of Morris and Nichols, the interior of the vehicle, the investigation of the cigars, and the use of a drug dog, there was no probable cause of a crime. Prior to opening the trunk, every possible indicator of a crime had been thoroughly investigated by the officers and no illegal activity was discovered.

CONCLUSION

For the above reasons, Petitioner respectfully requests this Court grant Rehearing and issue a decision reversing the Court of Appeals decision affirming the trial court's decision denying Petitioner's motion to suppress the evidence obtained during the search of the automobile Petitioner was driving.

Respectfully submitted,



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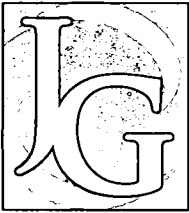
**PROOF OF SERVICE**

The undersigned hereby certifies that, on this 19th day of February, 2015, a true copy of the Appellant's Petition for Rehearing in the above referenced case has been served upon Mark Farthing, Esquire, Assistant Attorney General, by depositing a copy of same in the U.S. Mail, at the address below with sufficient first class postage attached.

Office of the Attorney General  
Post Office Box 11549  
Columbia, S.C. 29201

I further certify that all parties required by the South Carolina Rules of Appellate Procedure have been served.

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**LAW**

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HEATHER MOORE

February 19, 2015

**VIA HAND DELIVERY**

The Honorable Brenda F. Shealy  
Deputy Clerk of Court  
Supreme Court Of South Carolina  
1231 Gervais Street  
Columbia, SC 29201

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**Re: *The State v. Kenneth Darrell Morris, II***  
***Appellate Case No.: 2011-203786***  
***Opinion No. 27488***

**S.C. Supreme Court**

Dear Madam Clerk:

Please find enclosed for filing the original and nine (9) copies of a *Petition for Rehearing* in reference to the above case. I have also enclosed a *Proof of Service* of this document upon counsel for the respondent. Please return the additional filed copy to me via our courier.

Thank you for your attention to this matter. Should you need any additional information, please do not hesitate to contact this office.

With kindest regards, I remain,

Yours Very Truly,

Johnny Gardner

JG/yhb

Enclosures: As stated above

*Wherever life takes you, we'll be there.*

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