

# The Supreme Court of South Carolina

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TELEPHONE: (803) 734-1080  
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April 9, 2015

The Honorable David Hamilton  
PO Box 649  
York SC 29745-0649


## REMITTITUR

Re: The State v. Kenneth D. Morris, II  
Lower Court Case No. 2008GS4602834, 2008GS4602837  
Appellate Case No. 2011-203786

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

  
*Daniel E. Shearouse*  
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cc: Johnny Gardner, Esquire  
Mark Reynolds Farthing, Esquire  
Kevin Scott Brackett, Esquire

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

The State, Respondent,

v.

Kenneth Darrell Morris, II, Petitioner.

Appellate Case No. 2011-203786

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**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

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Appeal from York County  
The Honorable John C. Hayes, III, Circuit Court Judge

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Opinion No. 27488  
Heard June 24, 2014 – Filed January 28, 2015

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**AFFIRMED**

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Johnny Gardner, of Johnny Gardner Law Group, P.A., of  
Conway, for Petitioner.

Attorney General Alan M. Wilson, Chief Deputy  
Attorney General John W. McIntosh, Senior Assistant  
Deputy Attorney General Salley W. Elliott, Assistant  
Attorney General Mark R. Farthing, all of Columbia, and  
Kevin S. Brackett, of York, for Respondent.

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**JUSTICE HEARN:** Kenneth Darrell Morris, II challenges the trial court's denial of his motion to suppress ecstasy and marijuana discovered during a traffic stop, arguing they were obtained as the fruits of an illegal search and seizure in violation of the Fourth Amendment. We disagree, finding the officers had both reasonable suspicion of criminal activity and probable cause to conduct a warrantless search of the entire vehicle. Accordingly, we affirm.

### **FACTUAL/PROCEDURAL BACKGROUND**

Morris was driving on Interstate 77 through York County with Brandon Nichols in a rental vehicle. Officer L.T. Vinesett, Jr. and Constable W.E. Scott observed Morris commit a traffic violation by following a truck too closely. The officers followed Morris as he exited the interstate and initiated a traffic stop as he pulled into a gas station.

Vinesett approached the passenger side of the vehicle and requested that Morris produce his driver's license and registration. Vinesett then asked Morris to exit the vehicle and accompany him to the police cruiser. As Vinesett ran Morris's license, he asked Morris several questions about where the two men were traveling from and what they did there. Morris told Vinesett they went "to see some girls" in Atlanta and were on their way back to North Carolina. Vinesett returned to the rental vehicle and spoke briefly with Nichols, who stated he and Morris were returning from Atlanta after going to see a cousin play basketball.

Vinesett radioed Officer Gibson of the York County Police Department for a K-9 unit. While waiting for the K-9 unit to arrive, Scott conducted a consensual search of Morris, which yielded no contraband. After stating repeatedly that he had to use the restroom, Morris was escorted to the restroom by Scott.

Nichols also asked to use the restroom. He exited the vehicle and consented to a search of his person by Vinesett, which yielded no contraband. Vinesett told Nichols he would have to wait to use the restroom until Morris returned. Vinesett asked Nichols if he smoked marijuana earlier in the day and said he swore he smelled marijuana when Nichols exited the vehicle. Nichols stated the smell was from a Black & Mild cigar and that he did not smoke marijuana. A few minutes later, Gibson arrived to perform a K-9 search of the vehicle with Justice, a trained drug detection dog.

Vinesett and Gibson asked Nichols for his consent to search the vehicle, which Nichols refused, stating there was no contraband. Gibson then escorted Justice around the exterior of the vehicle twice; however, Justice did not alert at

any point. Vinesett then conducted a search of the vehicle, beginning with the interior and proceeding to the trunk. Although he did not find any contraband in the passenger compartment, Vinesett discovered a plastic bag in the trunk containing 393 ecstasy pills concealed within a small gift bag. Following the discovery of ecstasy, Morris and Nichols were placed under arrest. During a more thorough search after the arrests, officers discovered a plastic bag containing a half a pound of marijuana underneath the spare tire.

Morris was indicted on charges of trafficking ecstasy and possession of marijuana with intent to distribute. Prior to trial, Morris moved to suppress the drugs as the fruit of an illegal search and seizure. At the hearing, Vinesett testified he is a member of the York County Highway Interdiction Team (HIT Team). He stated that as part of his HIT training, he has attended several national training sessions on highway interdiction and drug enforcement. When questioned about the stop, Vinesett noted he smelled an odor of marijuana when he first approached the vehicle and spoke to Morris and Nichols. He stated he also observed several hollowed out Phillies Blunt<sup>1</sup> cigars in the center console of the vehicle, and loose blunt tobacco scattered over the frontal interior of the vehicle. He testified that although the smell of marijuana was the biggest indicator of criminal activity, other indicators of drug trafficking were present, including the inconsistent stories about traveling to Atlanta, the fact the vehicle was rented, and the presence of several consumed cans of Red Bull. When asked about the K-9 search, Vinesett conceded this was a fair indicator that no drugs were present, but stated Justice failed to keep his nose on the vehicle as he usually did during a search and instead frequently stopped to shake the water off, explaining he assumed Justice did not like being out in the rain.

Ultimately, the trial court denied Morris' motion, finding the officers had reasonable suspicion of criminal activity based on Vinesett's testimony that he smelled marijuana and the presence of hollowed out blunts.<sup>2</sup> In addition, the court stated there was no requirement that a stop cease because the police dog failed to alert, and at a length of roughly thirteen minutes, the traffic stop was not excessively long, nor unreasonably extended. Finally, the trial court found the

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<sup>1</sup> Phillies Blunts are an inexpensive brand of cigar. Vinesett testified that people "hollow [the blunt] out and place the marijuana in there, so if you did see them riding down the road smoking anything, it would look like they were just smoking a [Phillies] blunt."

<sup>2</sup> The court analogized the hollowed out blunts to finding a crack pipe within a vehicle.

officers had probable cause to search the vehicle, but did not articulate the specific reasoning for this finding.

Morris was convicted of trafficking ecstasy and simple possession of marijuana. The court sentenced Morris to thirty years' imprisonment and fined him \$50,000.00 for the ecstasy charge. It additionally sentenced him to a year imprisonment for the marijuana charge, to run concurrently. Morris appealed his conviction to the court of appeals which affirmed in *State v. Morris*, 395 S.C. 600, 720 S.E.2d 468 (Ct. App. 2011). We granted certiorari.

### ISSUES PRESENTED

- I. Did the court of appeals err in affirming the trial court's finding that the officers had reasonable suspicion of criminal activity to extend the length of the traffic stop?
- II. Did the court of appeals err in affirming the trial court's finding that the officers had probable cause to conduct a full search of the entire vehicle?

### STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Wilson*, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). "When reviewing a Fourth Amendment search and seizure case, an appellate court must affirm if there is any evidence to support the ruling." *State v. Wright*, 391 S.C. 436, 442, 706 S.E.2d 324, 326 (2011). "The appellate court will reverse only when there is clear error." *State v. Missouri*, 361 S.C. 107, 111, 603 S.E.2d 594, 596 (2004).

### LAW/ANALYSIS

The Fourth Amendment to the United States Constitution protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. A traffic stop and the detention of persons during such a stop constitutes a seizure. *State v. Maybank*, 352 S.C. 310, 315, 573 S.E.2d 851, 854 (Ct. App. 2002).

#### I. REASONABLE SUSPICION

Morris argues the trial court erred in finding the officers had reasonable suspicion to extend the scope of the traffic stop in violation of his Fourth Amendment rights. In addition, he argues the officers illegally prolonged the duration of the traffic stop. We disagree.

In carrying out a routine traffic stop, law enforcement may request a driver's license and vehicle registration, run a computer check, and issue a citation; however, any further detention for questioning is beyond the scope of the stop and therefore illegal unless the officer has reasonable suspicion of a serious crime. *Ståte v. Tindall*, 388 S.C. 518, 521, 698 S.E.2d 203, 205 (2010). 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). 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." *United States v. Foreman*, 369 F.3d 776, 781 (4th Cir. 2004).

Vinesett testified to the presence of several facts which from his experience and training, indicated drug trafficking. Vinesett stated that when he approached the passenger side of the vehicle, he detected the odor of marijuana<sup>3</sup> and observed several hollowed out Phillies Blunt cigars in a cup in the center console. Vinesett stated that in his experience, individuals unroll Phillies Blunt cigars, discard the tobacco, and then reroll them with marijuana to appear as if the individual is smoking a normal cigar. Additionally, he testified that Morris and Nichols gave different stories of their purpose in traveling to Atlanta. He noted there were several empty Red Bull cans, indicative of a need to stay awake for long periods of time while driving. Vinesett also noted that Morris drove a rented vehicle, which is an indicator of drug trafficking. Looking at the totality of the circumstances from the point of view of the reasonably prudent police officer, we find there is evidence in the record to support the trial court's conclusion that a reasonable suspicion of criminal activity existed.

Furthermore, we believe Morris's claim that the length of the stop was unduly prolonged is without merit. In total, Morris's traffic stop lasted roughly thirteen minutes. Recently, we held ten minutes was a reasonable amount of time for an initial traffic stop, and that off-topic questions did not unduly extend the duration of the stop. *State v. Provet*, 405 S.C. 101, 109, 747 S.E.2d 453, 458

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<sup>3</sup> Morris asks us to reexamine the record and make a new credibility determination of Vinesett's testimony. Specifically, Morris suggests that because Vinesett did not tell Morris that he smelled marijuana at the beginning of the stop, Vinesett's testimony that he smelled marijuana lacks credibility. However, the trial court found Vinesett's testimony credible, and that determination is left to its discretion. See *State v. Tutton*, 354 S.C. 319, 325-26, 580 S.E.2d 186, 190 (Ct. App. 2003).

(2013). We cannot say a thirteen minute stop was unduly prolonged or burdensome, especially where a reasonable suspicion to extend the stop existed at the outset. At no point did the officers leave Morris and Nichols detained without purpose or instruction. In addition, we note that Morris and Nichols' frequent requests to use the restroom throughout the entirety of the stop contributed to its duration.

Because there is evidence in the record that supports the finding of a reasonable suspicion of criminal activity, we find no error in the court of appeals' affirmance of the trial court on this issue.

## II. PROBABLE CAUSE

Morris also argues the trial court erred in determining probable cause existed to search the rental vehicle. In particular, he argues officers lacked probable cause to search the trunk of the car. We disagree.

The Fourth Amendment requires that a warrant for search and seizure be supported by probable cause. U.S. Const. amend. IV. Therefore, a warrantless search is per se unreasonable and violative of the Fourth Amendment unless the search falls within one of several well-recognized exceptions to the warrant requirement. *State v. Weaver*, 374 S.C. 313, 319, 649 S.E.2d 479, 482 (2007). These exceptions "include (1) search incident to a lawful arrest, (2) 'hot pursuit', (3) stop and frisk, (4) automobile exception, (5) the 'plain view' doctrine, and (6) consent." *State v. Bailey*, 276 S.C. 32, 36, 274 S.E.2d 913, 915 (1981). The automobile exception to requiring a search warrant exists in recognition of "the ready mobility of automobiles and the potential that evidence may be lost before a warrant is obtained" and "the lessened expectation of privacy in motor vehicles which are subject to government regulation." *State v. Cox*, 290 S.C. 489, 491, 351 S.E.2d 570, 571 (1986). To survive a Fourth Amendment challenge to a warrantless search, the State must establish the officer had probable cause and demonstrate one of the exceptions to the prohibition against warrantless searches and seizures applies. *State v. Gamble*, 405 S.C. 409, 416, 747 S.E.2d 784, 787 (2013).

Similar to reasonable suspicion, probable cause is a fluid concept. Probable cause is a "commonsense, nontechnical conception[] that deal[s] with the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." *Ornelas v. United States*, 517 U.S. 690, 695 (1996). Probable cause to conduct a search exists where "the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief

that contraband or evidence of a crime will be found." *Id.* at 696. "The principle components of a determination of . . . probable cause will be the events which occurred leading up to the stop or search, and then the decision whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to . . . probable cause." *Id.* Therefore, determining whether an officer has probable cause to conduct a warrantless search depends on the totality of the circumstances. *State v. Brannon*, 347 S.C. 85, 92, 552 S.E.2d 773, 776 (Ct. App. 2001).

We find the record supports the conclusion that Vinesett had probable cause to search the entire vehicle. The scope of a "warrantless search . . . is defined by the object of the search and the places in which there is probable cause to believe that it may be found." *United States v. Ross*, 456 U.S. 798, 824 (1982). Although Morris argues that because Vinesett failed to find drugs in the passenger compartment of the vehicle, he lacked probable cause to search the trunk, this contention mistakes the object for which Vinesett had probable cause to search. Vinesett was not simply looking for burnt marijuana based on the smell he detected at the inception of the stop. In our view, it is clear the object of his search was raw marijuana. Vinesett observed other indicators of drug possession or trafficking that led him to the reasonable belief that contraband would be found within the vehicle. The unrolled and hollowed Phillies Blunt cigars in the console suggest the future intent of marijuana use, not recent use. Additionally, Morris and Nichols told inconsistent stories, drove a rental car, and had several empty cans of Red Bull. Although those factors appear banal independently, cumulatively they indicated drug trafficking to Vinesett, based on his training and expertise. Accordingly, under our any evidence standard of review, we find the record supports the conclusion Vinesett reasonably believed the contraband he suspected could be found in the trunk of the vehicle. We therefore hold the court of appeals did not err in affirming the trial court's finding Vinesett had probable cause to search the entire vehicle.<sup>4</sup>

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<sup>4</sup> Morris contends the failure of the drug dog to alert militates against the conclusion Vinesett had probable cause to search the trunk. Although the failure to alert is certainly a consideration in determining probable cause under the totality of the circumstances, it is not dispositive. Other jurisdictions have held that if a drug detection dog fails to alert during a search, it does not defeat probable cause. *See United States v. Davis*, 430 F.3d 345, 367 (6th Cir. 2005) (citing cases and acknowledging "a near universal recognition that a drug-sniffing dog's failure to alert does not necessarily destroy probable cause"); *United States v. Ramirez*, 342

## CONCLUSION

Accordingly, because we find evidence in the record to support the trial judge's findings that Vinesett had reasonable suspicion to extend the traffic stop and probable cause to search the entire vehicle, we affirm the court of appeals.

**TOAL, C.J., and KITTREDGE, J., concur. PLEICONES, J., dissenting in a separate opinion in which BEATTY, J., concurs.**

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F.3d 1210, 1213 (10th Cir. 2003) ("We will not require investigators to cease an otherwise reasonable investigation solely because a dog fails to alert, particularly when we have refused to require that a dog sniff test be conducted at all."); *McKay v. State*, 814 A.2d 592, 599 (Md. Ct. Spec. App. 2002) ("[A] drug sniffing dog's failure to detect drugs does not automatically negate probable cause."); *see also Illinois v. Caballes*, 543 U.S. 405, 411–412 (2005) (Souter, J., dissenting) ("The infallible dog . . . is a creature of legal fiction . . . their supposed infallibility is belied by judicial opinions describing well-trained animals sniffing and alerting with less than perfect accuracy, whether owing to errors by their handlers [or] the limitations of the dogs themselves . . ."). Furthermore, Vinesett gave a reasonable explanation for why he believed the dog did not conduct a proper search.

**JUSTICE PLEICONES:** I respectfully dissent. In my view, it is a close question whether petitioner's traffic stop was unlawfully extended. *See State v. Hewins*, 409 S.C. 93, 760 S.E.2d 814 (2014). In any case, I would reverse the Court of Appeals' affirmance of the denial of petitioner's suppression motion. In my opinion, once the drug dog failed to alert, the already marginal "objectively reasonable suspicion" to search the vehicle and its trunk evaporated.<sup>5</sup> *State v. Provet*, 405 S.C. 101, 747 S.E.2d 453 (2013).

I would reverse and remand for a new trial.

**BEATTY, J., concurs.**

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<sup>5</sup> I am not persuaded by the majority's reliance on the dissent in *United States v. Davis*, 430 F.3d 345 (6th Cir. 2005). In *Davis*, the majority noted the dissent relied exclusively on cases where "even without the dog's alert there was probable cause to justify a more extended detention, whereas in this case there was only the more limited basis of reasonable suspicion." *Id.* at 359. As in *Davis*, here the State had at most only a "reasonable suspicion" that petitioner possessed illegal drugs.

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

The State, Respondent,

v.

Kenneth Darrell Morris, II, Appellant.

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Appeal From York County  
John C. Hayes, III, Circuit Court Judge

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Opinion No. 4872  
Heard March 8, 2011 – Filed August 17, 2011  
Withdrawn, Substituted and Refiled November 2, 2011

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**AFFIRMED**

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Johnny Gardner and Jonathan Hiller, both of  
Conway, for Appellant.

Attorney General Alan M. Wilson, Chief Deputy  
Attorney General John W. McIntosh, Assistant  
Deputy Attorney General Salley W. Elliott, and  
Assistant Attorney General Mark R. Farthing, all  
of Columbia; and Solicitor Kevin S. Brackett, of  
York, for Respondent.

**THOMAS, J.:** During a traffic stop, police officers searched the trunk of a car driven by Kenneth Darrell Morris, II, and discovered a quantity of ecstasy pills. A large amount of marijuana was also found during the subsequent inventory search. During his trial for trafficking ecstasy and possession of marijuana with intent to distribute, Morris unsuccessfully moved to suppress the drugs as fruit of an illegal search. A jury convicted Morris of both charges. Morris appeals the trial court's decision not to suppress the drugs. We affirmed the decision in a published opinion filed August 17, 2011. We now issue this amended opinion to emphasize the outcome of this appeal is governed by our standard of review.

**FACTS**

On the afternoon of February 6, 2008, Morris and a passenger, Brandon Nichols, were traveling northbound on I-77 in York County in a rented Ford 500. While riding in an unmarked police cruiser, Officer L.T. Vinesett, Jr., and Constable W.E. Scott noticed the Ford following a

truck too closely. The vehicle exited the interstate and proceeded to a gas station and rest area, where Officer Vinesett initiated a traffic stop.

Officer Vinesett approached the passenger side of the vehicle, where Nichols was sitting. Officer Vinesett asked for Morris's license and registration, and after a rental agreement was produced, Officer Vinesett noticed the car was rented to Nichols and Morris was not an authorized driver. Speaking through the passenger window, Officer Vinesett instructed Morris to exit the car, and as Morris opened the driver's side door, Officer Vinesett noticed hollowed Phillies Blunts<sup>[1]</sup> in the center console and blunt tobacco in the center console and on the floorboard.

To avoid the rain, Officer Vinesett had Morris sit in the front passenger seat of the police cruiser while he inquired about Morris's travel plans. Morris told him Nichols rented the vehicle the previous day in Greensboro, North Carolina, and they were on their way back from visiting some women in Atlanta, Georgia. Officer Vinesett also asked Morris whether Morris had a drug record. Morris disclosed he had been arrested for a marijuana offense when he was a minor.

Officer Vinesett returned to the Ford, and outside the presence of Morris, Nichols stated the pair was returning from a basketball game in Atlanta. Officer Vinesett consequently radioed for a nearby canine unit to bring a drug dog to the scene. He explained that he pulled over two men who offered conflicting stories of their plans, one of whom had a previous drug conviction, and that he had seen loose blunt tobacco in the car, suggesting they had been rolling marijuana in the blunts.

While waiting for the drug dog, Morris consented to a search of his person, and the search yielded no contraband. Morris then went to the restroom under Constable Scott's supervision. Officer Vinesett asked Nichols to exit the car and requested consent to search Nichols's person. Nichols consented, and again, the search yielded no contraband.

Moments later, Officer Gibson arrived with a drug dog. While Morris was still in the restroom, Officer Vinesett and Officer Gibson asked Nichols for permission to search the car, saying the officers would use the drug dog if consent was not given. Nichols refused to give consent, so Officer Gibson walked the dog around the car twice. The dog did not alert on either lap around the car and was returned to the police cruiser. Officer Vinesett again asked Nichols for consent to search the car, and Nichols again refused. Roughly thirteen minutes after the stop had been initiated, Nichols stated he "was ready to go."

Shortly thereafter, the officers held a conversation away from Morris and Nichols. Officer Vinesett returned to the Ford, leaned through the still open window of the car, and looked around for a few moments. He then returned to Nichols, who was still seated in the police cruiser, and stated that he could have "swor[n he] could smell some marijuana." Nichols responded that Officer Vinesett was confusing the smell of the Black & Mild he recently smoked with marijuana and he neither had marijuana, nor was he a marijuana smoker.

At that time, Officer Vinesett and Officer Gibson returned to the car and searched the passenger compartment. The emptied blunts contained no marijuana or marijuana residue, and the officers found no other evidence of contraband in the passenger compartment. However, Officer Vinesett searched the trunk and eventually found a plastic bag containing 393 ecstasy pills inside a gift box. The men were arrested slightly over fourteen minutes after

the initiation of the stop. The car was impounded, and a subsequent inventory search of the car yielded nearly a half pound of marijuana hidden under the spare tire.

At trial, Morris moved to suppress the drug evidence, arguing the officers illegally extended the scope and length of the traffic stop and probable cause did not support the search of the trunk. During the suppression hearing, Officer Vinesett testified that, although he failed to mention it to Constable Scott at the scene or Officer Gibson when he requested the dog, he smelled the odor of burnt marijuana when he first approached the car. The trial court denied the motion. It specifically discounted what Officer Vinesett classified as Morris's and Nichols's "inconsistent stories." However, it found Officer Vinesett's testimony regarding the smell of marijuana credible, and it held the length and scope of the stop was reasonable in light of the circumstances. Additionally, the trial court found that even though the dog did not alert on the car, the marijuana smell, loose tobacco, and hollowed blunts, in light of the officer's knowledge and experience, amounted to probable cause to search the entire car, including the trunk. This appeal followed.

### ISSUES ON APPEAL

- I. Did the trial court err in finding the officers had reasonable suspicion to expand the scope and length of the traffic stop?
- II. Did the trial court err in finding the search of the trunk was supported by probable cause?

### STANDARD OF REVIEW

In Fourth Amendment search and seizure cases, our standard of review is limited to the following:

The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. 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. When reviewing a Fourth Amendment search and seizure case, an appellate court must affirm if there is any evidence to support the ruling. The appellate court will reverse only when there is clear error.

State v. Wright, 391 S.C. 436, 442, 706 S.E.2d 324, 326 (2011) (citations and internal quotation marks omitted). "[T]his deference does not bar this Court from conducting its own review of the record to determine whether the trial judge's decision is supported by the evidence." State v. Tindall, 388 S.C. 518, 521, 698 S.E.2d 203, 205 (2010).[2]

#### I. Scope and Length of the Stop

Morris argues the trial court erred in failing to suppress the drugs because (1) Officer Vinesett's testimony he smelled burnt marijuana during the detention lacks credibility and (2) Officer Vinesett unlawfully extended the traffic stop.

Upon a lawful traffic stop, an officer "may order the driver to exit the vehicle . . . [,] request a driver's license and vehicle registration, run a computer check, and issue a citation." State v. Pichardo, 367 S.C. 84, 98, 623 S.E.2d 840, 847 (Ct. App. 2005) (citations omitted). However,

a lawful 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 also 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."). The extension of a lawful traffic stop is permitted if (1) the encounter becomes consensual or (2) the officer has a reasonable, articulable suspicion of other illegal activity. Pichardo, 367 S.C. at 99, 623 S.E.2d at 848.

Reasonable suspicion requires "'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)). It "is something more than an inchoate and unparticularized suspicion or hunch." State v. Rogers, 368 S.C. 529, 534, 629 S.E.2d 679, 682 (Ct. App. 2006). Therefore, in determining whether reasonable suspicion exists, the trial court must consider the totality of the circumstances. Id.

Initially, we must reject Morris's first argument. Regardless of whether we believe Officer Vinesett's testimony that he smelled marijuana, the trial court found that testimony to be credible. The appellate court's task in reviewing the trial court's factual findings on a Fourth Amendment issue is simply to determine whether any evidence supports the trial court's findings. See State v. Asbury, 328 S.C. 187, 193, 493 S.E.2d 349, 352 (1997) ("This Court's scope of review is determined by our State constitution which limits our scope of review in law cases to the correction of errors of law. In criminal cases, appellate courts are bound by fact findings in response to preliminary motions where there has been conflicting testimony or where the findings are supported by the evidence and not clearly wrong or controlled by an error of law." (citations omitted)).

We must also reject Morris's second argument. Under the facts of this case as found by the trial court, we must affirm the trial court's holding reasonable suspicion existed to extend the duration and scope of the stop for a reasonable investigation of drug activity. Officer Vinesett testified he smelled marijuana as he approached the car, and after requesting Morris's license and registration, he learned Morris was not an authorized driver. Cf. State v. Butler, 353 S.C. 383, 390, 577 S.E.2d 498, 501 (Ct. App. 2003) (finding that an officer's detection of the odor of alcohol during a traffic stop justified the extension of the stop based on the reasonable suspicion that open containers were located in the vehicle) (per curiam); see also State v. Odom, 376 S.C. 330, 335, 656 S.E.2d 748, 751 (Ct. App. 2007) (indicating that the sight of Swisher Sweet cigars, the strong odor of marijuana, the defendant's admission he smoked marijuana earlier in the day, and the presence of a gun holster in the back seat amounted to reasonable suspicion of the existence of drugs). Upon stopping the Ford, moreover, Officer Vinesett had the authority to order Morris out of the car, and when he did so, he observed the hollow blunts and loose tobacco, which in his experience indicated drug use. See Pichardo, 367 S.C. at 98, 623 S.E.2d at 847-48 (providing that upon a lawful traffic stop, an officer may order the driver out of the vehicle, "request a driver's license and vehicle registration, run a computer check, and issue a citation"). Thus, Officer Vinesett properly gained reasonable suspicion Morris and Nichols were using drugs, and he was permitted to take reasonable steps to confirm or dispel this suspicion. See State v. Corley, 383 S.C. 232, 241, 679 S.E.2d 187, 192 (Ct. App. 2009) (providing that during a traffic stop, "the police may briefly detain and question a person upon a reasonable suspicion, short of probable cause for arrest, that the person is involved in criminal activity"; "[t]he scope and duration of [this investigative] detention must be strictly tied to and justified by the circumstances that rendered its initiation proper"; and normally, this permits an officer to attempt to obtain information confirming or dispelling

the officer's suspicion), aff'd as modified, 392 S.C. 125, 708 S.E.2d 217 (2011). He did so by asking both Morris and Nichols a series of questions, receiving consent to search their persons, and calling in a drug dog.

## II. The Search

Morris next argues the trial court erred in declining to suppress the drug evidence as fruit of an illegal search. Morris does not contest Officer Vinesett's search of the passenger compartment, but he argues Officer Vinesett lacked probable cause to search the trunk. We disagree.

The Fourth Amendment prohibits unreasonable searches, and a warrantless search generally is unreasonable. State v. Peters, 271 S.C. 498, 501, 248 S.E.2d 475, 476 (1978). However, the ready mobility of and the lessened expectation of privacy in automobiles endorse an exception to that rule based upon probable cause. State v. Cox, 290 S.C. 489, 491, 351 S.E.2d 570, 571 (1986). A probable cause analysis involves the use of a fact-based, objective perspective that requires more than reasonable suspicion of criminal activity:

Probable cause is a commonsense, nontechnical conception that deals with the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. Probable cause to search exists where the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found in a particular place. The principal components of the determination of probable cause will be whether the events which occurred leading up to the search, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause.

State v. Brown, 389 S.C. 473, 482, 698 S.E.2d 811, 816 (Ct. App. 2010) (internal citations omitted).

"The scope of a warrantless search of an automobile is defined by the object of the search and the places in which there is probable cause to believe that it may be found." State v. Perez, 311 S.C. 542, 546, 430 S.E.2d 503, 505 (1993). Therefore, "[i]f probable cause justifies the [warrantless] search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search." United States v. Ross, 456 U.S. 798, 825 (1982); see also State v. Brannon, 347 S.C. 85, 94, 552 S.E.2d 773, 777 (Ct. App. 2001) (Anderson, J., concurring in result only) ("Under the automobile exception, if probable cause exists to justify the warrantless search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search.").

In this case, the trial court made no separate rulings to support its finding of probable cause beyond those supporting its pronouncement of reasonable suspicion. The trial court simply stated, "He had probable cause to search." In light of the summary nature of this ruling, we must determine whether the same factual findings that supported the finding of reasonable suspicion also support a determination of probable cause. Emphasizing our deferential standard of review, we determine they do.

The trial court specifically found that in Officer Vinesett's experience blunts are often hollowed

to accommodate the smoking of marijuana. Similarly, the loose tobacco in the car indicated the blunts were recently hollowed in the car. Considering these factors in conjunction with the background odor of marijuana, the circumstances are sufficient to warrant a reasonable and prudent person to believe Morris and Nichols possessed marijuana. Accordingly, the officers had probable cause to search anywhere in the vehicle where marijuana could be located. The trial court properly admitted the drug evidence discovered in the trunk.

### CONCLUSION

For the aforementioned reasons, the ruling of the trial court is

**AFFIRMED.**

**FEW, C.J., and KONDUROS, J., concur.**

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[1] Phillies Blunts are a brand of inexpensive, American-made cigars. The tobacco inside a Phillies Blunt is often emptied in order to roll a marijuana cigar.

[2] Tindall articulated the standard of review subsequently repeated in Wright. However, Tindall's ensuing discussion included a footnote explaining that this standard of review requires a two-part analysis: (1) whether the record supports the trial court's factual findings and (2) whether those factual findings establish reasonable suspicion or probable cause. See Tindall, 388 S.C. at 523 n.5, 698 S.E.2d at 206 n.5 ("While we acknowledge that we review under the deferential 'any evidence' standard, this Court still must review the record to determine if the trial judge's ultimate determination is supported by the evidence. In short, we must ask first, whether the record supports the trial court's assumed findings . . . and second, whether these facts support a finding that the officer had reasonable suspicion of a serious crime to justify continued detention of Tindall." (citation omitted)).