STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions
Alison Renee Lee, Circuit Court Judge

Appellate Case No. 2016-002246

THE STATE, ...RESPONDENT,

v.

SOLEIMAN H. HATTAR,.....APPELLANT.

INITIAL BRIEF OF RESPONDENT

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

The trial judge properly refused to suppress the evidence of Appellant's drugs because officers developed reasonable suspicion for the search during a lawful traffic stop due to Appellant's and the driver's suspicious behavior during the stop, concerns for officers' safety, and the plain view exception to the Fourth Amendment. Moreover, even if the search was improper, the drug evidence should not be excluded because it would have inevitably been discovered as a result of the driver's arrest and the impounding of his vehicle.

STATEMENT OF THE CASE

On October 12, 2016, the Richland County Grand Jury indicted Appellant for manufacturing methamphetamine, third or subsequent offense, possession with intent to distribute (PWID) heroin, third or subsequent offense, possession of less than one gram of methamphetamine or cocaine base, second offense, possession of other controlled substance (oxycodone), second or subsequent offense, and possession of narcotics, second offense. On October 24–26, 2016, Appellant proceeded to a jury trial before the Honorable Alison R. Lee. C. Lawrence Simmons, Esquire, represented Appellant; Assistant Solicitors Joseph Berry, Esquire, and Richard C.R. Cathcart Sr., Esquire, represented the State. The jury found Appellant guilty as charged and sentenced him to concurrent sentences of twenty years' incarceration, ten years' incarceration, five years' incarceration, five years' incarceration , and one year incarceration, respectively.

Appellant filed a timely Notice of Appeal and subsequently submitted a Brief in support of his appeal. This Brief of Respondent follows.

STATEMENT OF FACTS

Prior to trial, the trial judge held a hearing to determine the admissibility of various evidence, including Appellant's incriminating statements to officers pursuant to Jackson v. Denno[1] and a motion to suppress the drug evidence it was discovered during an unlawful search of Appellant, who was the passenger in a vehicle stopped by police for a traffic violation. (Tr.p.20, line 12–Tr.p.22, line 25).

On November 3, 2014, Officer Christopher Kaderly and his training officer Sergeant Robert Dale were patrolling Irmo, South Carolina. At approximately 11:00 p.m., the two officers were at an intersection, behind a blue truck, when they observed the truck fail to yield the right of way by turning left in front of oncoming traffic. Accordingly, Officer Kaderly decided to initiate a traffic stop of the truck and its occupants. Officer Kaderly approached the driver while Sergeant Dale approached the passenger door of the vehicle to both observe Officer Kaderly and provide any needed support. Officer Kaderly discovered the driver was driving under a suspended license, and arrested him for that crime. Due to the arrest, Officer Kaderly had planned to inventory and tow the vehicle and transport the driver to jail. (Tr.p.41, line 13–Tr.p.46, line 5; Tr.p.58, line 16–Tr.p.65, line 2).

Meanwhile, Sergeant Dale began speaking with Appellant, the passenger of the vehicle, and noticed he was acting extremely nervous, speaking out of turn, and responding to questions Officer Kaderly asked the driver. Sergeant Dale also observed an item covered with a towel on the floorboard below Appellant's feet. Sergeant Dale asked Appellant about the item, but the latter failed to explain what the item was and appeared to become even more nervous. Scared, Sergeant Dale determined he needed to get Appellant away from the unknown item for the officers' safety. Sergeant Dale put handcuffs on Appellant while he was still seated in the car

[1] 378 U.S. 368 (1964)

and then had him exit the vehicle so he could determine whether the item below the towel was dangerous. When he peered under the towel, Sergeant Dale saw "a two liter bottle . . . [with] gold beads on top of a layer of [liquid], [which] appeared to be rolling [or boiling]." Based on his training, Sergeant Dale believed the bottle contained methamphetamine. Knowing that active "meth labs" often explode, Sergeant Dale had everyone leave area of the truck and walk back to the patrol car. Additionally, Sergeant Dale searched Appellant for weapons and located a bag containing several pills in his pocket. (Tr.p.46, line 8–Tr.p.47, line 22; Tr.p.65, line 3–Tr.p.68, line 10; Tr.p.72, line 12–Tr.p.73, line 10; Tr.p.78, lines 10–15; Tr.p.80, line 15–Tr.p.81, line 1).

Back at the patrol car, Sergeant Dale began contacting various State agencies to deal with the potential threat while Officer Kaderly began questioning Appellant to determine whether the bubbling bottle was a danger to the officers and people in the vicinity. Appellant informed Officer Kaderly the bottle was filled with "f****ing meth" and that "it[] [was not] that big of a deal." Eventually, law enforcement officers specializing in narcotics and hazardmous materials arrived and removed the bottle of meth. (Tr.p.47, line 23–Tr.p.52, line 9; Tr.p.68, line 11–Tr.p.71, line 19).

Following the officers' testimonies, the parties discussed the propriety of suppressing Appellant's statements to police based on the officers' failure to give Appellant Miranda[2] warnings. Trial counsel argued the lack of Miranda warnings rendered Appellant's statements inadmissible. The State disagreed, claiming the officers' attempt to deal with methamphetamine, a potentially explosive substance, was a public safety exception which justified their failure to warn Appellant of his right against self-incrimination, and noted such exception has been previously recognized by the Supreme Court of the United States in New York v. Quarles, 467

[2] Miranda v. Arizona, 384 U.S. 436 (1966).

U.S. 649 (1984).[3] The trial judge agreed with the State, the officers' concern that the discovered substance was a volatile methamphetamine compound was a public safety issue justifying the lack of Miranda warnings. (Tr.p.81, line 15–Tr.p.88, line 14).

Trial counsel also argued Appellant's nervousness was not, by itself, a sufficient basis for reasonable suspicion or to pull him out of the truck and search his area of the vehicle. This, combined with an argument that the driver of the truck had the right of way,[4] meant the traffic stop was improper and any evidence discovered during the stop and subsequent search of the truck should be suppressed. The State also disagreed with these arguments, noting the driver's decision to turn in front of oncoming traffic was a violation justifying a stop. Then, once the officers initiated the stop, Sergeant Dale observed, in plain view, an item obscured by the white towel, and Appellant's refusal to identify said item created a reasonable concern for officers' safety and exigent circumstances justifying the search of the item and its surroundings. The State further argued that regardless of the propriety of the search, the bottle of methamphetamine

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[3] In Quarles, the Supreme Court of the United States found an officer who asked a suspect about the location of a hidden, loaded gun in a supermarket was not required to give that suspect Miranda warnings because the need to protect public safety outweighs the importance of "the prophylactic rule protecting the Fifth Amendment's privilege against self-incrimination." Quarles, 467 U.S. at 655–57. The court specifically noted Miranda warnings might deter a suspect from cooperating with officers and the possibility that another person, whether an accomplice or customer of the store, found the weapon was simply too steep a risk for law enforcement, given an officer may have only seconds to determine:

> [W]hether it best serves society for them to ask the necessary questions without the Miranda warnings and render whatever probative evidence they uncover inadmissible, or for them to give the warnings in order to preserve the admissibility of evidence they might uncover but possibly damage or destroy their ability to obtain evidence and neutralize the volatile situation confronting them."

Quarles, 467 U.S. at 657–58.

[4] Trial counsel argued the driver's blue truck had the right of way at the intersection because "when you look at the statutes [they] say[] if another vehicle is in the intersection or so close thereto as to constitute an immediate hazard you cannot turn left. (Tr.p.89, lines 16–23). It is the State's belief that trial counsel confused the driver's blue truck with the vehicle driver turned in front of in the intersection.

would inevitably have been discovered when officers inventoried the vehicle before having it towed. (Tr.p.88, line 15–Tr.p.94, line 12).

The trial judge found the officers had probable cause for the stop—the traffic violation—and Appellant's suspicious behavior, combined with the Sergeant Dale's observation of the item and towel created a reasonable concern for officers' safety justifying the search around the towel and Appellant's person. (Tr.p.94, line 13–Tr.p.96, line 7).

ARGUMENT

The trial judge properly refused to suppress the evidence of Appellant's drugs because officers developed reasonable suspicion for the search during a lawful traffic stop due to Appellant's and the driver's suspicious behavior during the stop, concerns for officers' safety, and the plain view exception to the Fourth Amendment. Moreover, even if the search was improper, the drug evidence should not be excluded because it would have inevitably been discovered as a result of the driver's arrest and the impounding of his vehicle.

Appellant argues the trial judge erred in finding the search of Appellant's area of the vehicle proper, claiming there was no reasonable articulable suspicion or concern for public safety justifying the search. The State disagrees with this allegation of error. Appellant's suspicious behavior combined with Sergeant Dale's observation of the obscured item created a reasonable concern for the officers' safety. Regardless, even if the search of the passenger compartment was improper, any error in admitting the drug evidence was harmless because the evidence would inevitably have been discovered when the officers' inventoried the vehicle after the driver's arrest for driving with a suspended license.

Reasonable Suspicion

In criminal cases, appellate courts sit to review errors of law only. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). In Fourth Amendment search and seizure cases, the appellate court is limited to determining if there is any evidence to support the trial court's findings and can only reverse due to clear error. State v. Flowers, 360 S.C. 1, 5, 598 S.E.2d 725, 727 (Ct. App. 2004); see State v. Brockman, 339 S.C. 57, 66, 528 S.E.2d 661, 666 (2000) ("[W]e will review the trial court's ruling like any other factual finding and reverse if there is clear error. We will affirm if there is any evidence to support the ruling."). The reviewing court may conduct its own review of the record to determine whether the trial judge's ruling is supported by

the evidence. State v. Khingratsaiphon, 352 S.C. 62, 70, 572 S.E.2d 456, 460 (2002). However, the appellate court must affirm the trial court if there is any evidence supporting the ruling. See State v. Moore, 415 S.C. 245, 251, 781 S.E.2d 897, 900 (2016) ("[A]ppellate courts must affirm if there is any evidence to support the trial court's ruling."); State v. Morris, 411 S.C. 571, 578, 769 S.E.2d 854, 858 (2015) ("'When reviewing a Fourth Amendment search and seizure case, an appellate court must affirm if there is any evidence to support the ruling.' "(citation omitted)). The appellate court will not reverse merely because it would have reached a different conclusion than the trial judge. State v. Rivera, 384 S.C. 356, 361, 682 S.E.2d 307, 310 (Ct. App. 2009); see Khingratsaiphon, 352 S.C. at 70, 572 S.E.2d at 459 ("In State v. Brockman, . . . [w]e concluded the appellate court would not review the trial judge's ultimate determination de novo but, rather, would apply a deferential standard of review.").

Pursuant to the Fourth Amendment, "[a] police officer may stop and briefly detain and question a person for investigative purposes, without treading upon his Fourth Amendment rights, when the officer has a reasonable suspicion supported by articulable facts, short of probable cause for arrest, that the person is involved in criminal activity." State v. Blassingame, 338 S.C. 240, 248, 525 S.E.2d 535, 539 (Ct. App. 1999); see United States v. Sokolow, 490 U.S. 1, 7 (1989) ("[T]he police can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity 'may be afoot,' even if the officer lacks probable cause." (citation omitted)); State v. Robinson, 306 S.C. 399, 402, 412 S.E.2d 411, 413 (1991) ("To justify a brief stop and detention, the police officer must have a reasonable suspicion that the person has been involved in criminal activity."). "Reasonable suspicion" requires a particularized and objective basis leading one to suspect another of criminal activity. See State v. Moore, 415 S.C. 245, 252, 781 S.E.2d 897, 900 (2016).

The reasonable suspicion standard is less demanding than probable cause, and requires a showing considerably less than preponderance of the evidence. Illinois v. Wardlow, 528 U.S 119, 123 (2000).

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). While the Fourth Amendment requires 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.").

A lawful traffic stop begins at the point an officer stops a vehicle to investigate a traffic violation and "ordinarily continues, and remains reasonable, for the duration of the stop." Arizona v. Johnson, 555 U.S. 323, 333 (2009). Once a lawful traffic stop is initiated, 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." State v. Pichardo, 367 S.C. 84, 98, 623 S.E.2d 840, 847 (Ct. App. 2005) (citing United States v. Sullivan, 138 F.3d 126 (4th Cir. 1998)); 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."). "Normally, the stop 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.

During the course of the stop, 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 duration of the stop. Id.; see Rodriguez v. United States, 135 S. Ct. 1609, 1614 (2015) ("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 Fourth Amendment violation). Such an investigatory traffic stop must be temporary and last no longer than necessary to effectuate its purpose. Pichardo, 367 S.C. at 98, 623 S.E.2d at 848; see Rodriguez, 135 S. Ct. at 1614 ("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.").

In determining the existence of reasonable suspicion, the totality of the circumstances must be considered. Pichardo, 367 S.C. at 104, 623 S.E.2d at 85. In reviewing the totality of the circumstances, the individual factors of the traffic stop must not be considered piecemeal or in

isolation. 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 officer's actions were reasonable in light of all of the information available to him at the time. See United States v. Arvizu, 534 U.S. 266, 273 (2002) ("[W]e have said repeatedly that [reviewing courts] must look at the 'totality of the circumstances' of each case to see whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing. The process allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that 'might well elude an untrained person.'" (citations omitted)); 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.'" State v. Wallace, 392 S.C. 47, 52, 707 S.E.2d 451, 453 (Ct. App. 2011) (quoting United States v. Whitehead, 849 F.2d 849, 858 (4th Cir. 1988)). Thus, the presence of several factors seemingly consistent with innocent travel can establish reasonable suspicion when viewed together in totality. Sokolow, 490 U.S. at 9.

In Michigan v. Long, 463 U.S. 1032 (1983), the United States Supreme Court held a Terry[5] search for weapons can extend to automobiles involved in a traffic stop. In Long, two police officers on patrol observed a car "traveling erratically and at excessive speed" swerve into a ditch. The officers stopped to investigate, and found the defendant, the only occupant of the

[5] Terry v. Ohio, 392 U.S. 1 (1968).

car, at the rear of the vehicle. He appeared to be "under the influence of something" and failed to respond to initial requests for his license and registration. When he began walking toward the open door of his car, the officers followed him and saw a hunting knife on the floorboard of the driver's side. The officers performed a pat down search of the defendant which revealed no weapons. Officers then shined a light into the car, saw something protruding from the armrest, and saw an open pouch containing marijuana.[6] Id. at 1034–37.

The Court noted "investigative detentions involving suspects in vehicles are especially fraught with danger to police officers" because automobiles contain numerous locations where a person may hide and easily retrieve weapons, and such concerns for officer safety persist when an individual is in the "control" of officers but is not fully restrained pursuant to a complete custodial arrest because suspects may: (1) break away from police control to retrieve a weapon; (2) retrieve a weapon when officers permit them to return to the vehicle before a Terry investigation is concluded; or (3) retrieve the weapon when permitted to go back to their vehicles after the investigation is concluded. Thus, the Court found an officer may search areas of the vehicle in which a weapon may be placed or hidden from which the occupant may gain immediate control of the weapon(s), provided the investigating officer possesses a reasonable belief based on "specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant" a search of those readily accessible locations. Id. at 1047–52.

[6] After an additional search of the car's interior, the vehicle was impounded. Later, additional marijuana was found in the trunk. The Michigan Supreme Court suppressed this additional, finding it was a fruit of the illegal search of the interior of the automobile. After the United States Supreme Court reversed, finding the search of the interior was a lawful Terry search for weapons, this issue was remanded to the Michigan Supreme Court to determine whether the trunk search was a valid inventory search under the United States Supreme Court's decision in South Dakota v. Opperman, 428 U.S. 364 (1976). Long, 463 U.S. at 1053–54.

The Court also noted several facts supported the officers' reasonable suspicion: (1) the stop occurred late at night in a rural area; (2) Long had been driving his vehicle at an excessive speed and swerved into a ditch; (3) Long appeared to be "under the influence" of some intoxicant; (4) officers had to repeat their questions to Long; (5) officers observed the long knife in the interior of the car into which Long was about to reenter. The Court found the scope of the search was proper, as it was limited to "those area to which Long would generally have immediate control, and could contain a weapon." Id. at 1050–51.

Initially, the State notes Appellant does not dispute the propriety of the initial traffic stop. Accordingly, the trial judge's finding that the traffic stop was proper is now the law of the case. Shirley's Iron Works, Inc. v. City of Union, 403 S.C. 560, 573, 743 S.E.2d 778, 785 (2013) ("An unappealed ruling is the law of the case and requires affirmance.").

Furthermore, Appellant fails to recognize was not a basic search for contraband, but a Terry search performed for the officers' safety, and as such is properly analyzed under Terry, which expressly permits an officer who has a reasonable belief that the "suspicious" individual he is investigating "is armed and presently dangerous to the officer or to others . . . to take necessary measures to determine whether the person is in fact carrying a weapon and to neutralize the threat of physical harm." 392 U.S. at 24.

Sergeant Dale testified both the driver and Appellant were acting suspiciously throughout the traffic stop. Appellant responded to Officer Kaderly's questions and cut off the driver's responses, despite the fact that they were directed at driver. Further, Appellant was extremely nervous and sweaty, despite the fact that, in Sergeant Dale's experience, passengers are usually relaxed during traffic stops. Most importantly, however, when Sergeant Dale eyed a suspicious item at Appellant's feet, he refused to identify the item. If such item had been a weapon, it was

readily accessible by Appellant and could have been used to harm the officers. Additionally, much like in Long, the traffic stop occurred late at night and the driver of the vehicle had been driving recklessly. Thus, the actions of the driver and Appellant, combined with the facts of the situation gave Sergeant Dale such reasonable suspicion that any objective, reasonably prudent person in his situation would believe his safety was in danger. Accordingly, the trial judge did not abuse his discretion because his ruling was supported by evidence in the record.

Inevitable Discovery

Any evidence seized as the result of an unreasonable search and seizure typically must be excluded from trial. State v. Weaver, 374 S.C. 313, 319, 649 S.E.2d 479, 482 (2007). In Silverthorne Lumber Co. v. United States, 251 U.S. 385 (1920), the United States Supreme Court held the exclusionary rule applies not only to the illegally obtained evidence itself, but also to other incriminating evidence derived from the primary evidence. "The holding of Silverthorne was carefully limited, however, for the Court emphasized that such information does not automatically become 'sacred and inaccessible.'" Nix v. Williams, 467 U.S. 431, 441 (1984) (citations omitted). The Court explained: "If knowledge of [such facts] is gained from an independent source, they may be proved like any others . . . ." Silverthorne, 251 U.S. at 392. The Court in Nix further explained: "The independent source doctrine allows admission of evidence that has been discovered by means wholly independent of any constitutional violation." Nix, 467 U.S. at 443; see also, State v. Copeland, 321 S.C. 318, 323, 468 S.E.2d 620, 624 (1996) (finding "challenged evidence is admissible if it was obtained from a lawful source independent of the illegal conduct").

In Nix, officers violated the defendant's Sixth Amendment right to counsel by speaking with him after agreeing with his lawyer not to communicate with the defendant. As a result of

the communications, the defendant led the officers to the location of a missing child's body. The United States Supreme Court acknowledged the violation of the Sixth Amendment, but found because individuals were already canvassing the area, the body would have been inevitably discovered. The Court explained its reasons for not excluding the evidence based on the constitutional violation saying:

> Exclusion of physical evidence that would inevitably have been discovered adds nothing to either the integrity or fairness of a criminal trial. . . . Suppression, in these circumstances, would do nothing whatever to promote the integrity of the trial process, but would inflict a wholly unacceptable burden on the administration of criminal justice.

Nix, 467 U.S. at 446. The Court continued that exclusion was not necessary to cure an ill or to insure fairness, finding:

> Fairness can be assured by placing the State and the accused in the same positions they would have been in had the impermissible conduct not taken place. However, if the government can prove that the evidence would have been obtained inevitably and, therefore, would have been admitted regardless of any overreaching by the police, there is no rational basis to keep that evidence from the jury in order to ensure the fairness of the trial proceedings. In that situation, the State has gained no advantage at trial and the defendant has suffered no prejudice. Indeed, suppression of the evidence would operate to undermine the adversary system by putting the State in a worse position than it would have occupied without any police misconduct. Williams' argument that inevitable discovery constitutes impermissible balancing of values is without merit.

Id. at 447. The Fourth Circuit, in United States v. Seohnlein, 423 F.2d 1051, 1053 (4th Cir. 1970), recognized the inevitable discovery doctrine in a case similar to the one at hand. Officers stopped a vehicle driven by the defendant. After obtaining his wallet and realizing he presented an expired license, the officer continued to search through the wallet for further proof of identification. He found papers with the defendant's real name listed. The trial court suppressed the papers from the wallet, but allowed testimony and evidence that resulted after the individuals

were detained. The Fourth Circuit found that the defendant's identity would have been discovered from his co-defendant because they were both wanted as fugitives and the co-defendant had given his actual name. The Fourth Circuit explained:

> [T]he district judge found that the police would have learned of the Baltimore warrants through Rutkowski and that they would have arrested Seohnlein even if they had not discovered the papers in his wallet. Although the knowledge gained from examining the wallet may have accelerated a lawful arrest on the Baltimore warrant, it did not taint the evidence that was subsequently obtained.

Seohnlein, 423 F.2d at 1053.

Similar to Nix and Seohnelin, the evidence in dispute—the bottle of methamphetamine—would have inevitably been discovered by officers independent of their investigation of Appellant. Officer Kaderly initiated the traffic stop after observing a traffic violation. When Officer Kaderly spoke with the driver of the truck, he discovered the driver possessed a suspended license and was in the process of completing the arrest when Sergeant Dale questioned Appellant and discovered the methamphetamine. Following the driver's arrest, the officers were required to inventory the vehicle before having it impounded. Officers would have found the drugs during this process. Accordingly, there is no rational basis upon which to suppress the evidence in the instant case. See Nix, 467 U.S. at 447.

CONCLUSION

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

Respectfully submitted,

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April 19, 2018

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions
Alison Renee Lee, Circuit Court Judge

Appellate Case No. 2016-002246

THE STATE, ...RESPONDENT,

v.

SOLEIMAN H. HATTAR,.....APPELLANT.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by sending two copies of the same to:

Robert M. Pachak, Esquire
S.C. Commission on Indigent Defense
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I further certify that all parties required by Rule to be served have been served this 19th day of April, 2018.

Angela Bennett
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ATTORNEY GENERAL

April 19, 2018

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RE: State v. Soleiman Hattar – Appellate Case No. 2016-002246

Dear Mr. Pachak:

I am enclosing two (2) copies of the Initial Brief of Respondent and Designation of Matter in the above-referenced case.

Sincerely,

William F. Schumacher, IV
Assistant Attorney General
S.C. Bar No. 100231

Enclosures

cc: Honorable Jenny A. Kitchings (original and one enclosed)
Victim Advocacy Division