

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**SC Court of Appeals**

APPEAL FROM YORK COUNTY  
Court of General Sessions  
The Honorable Daniel D. Hall, Circuit Court Judge

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Appellate Case No. 2020-000184

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THE STATE,

Respondent,

v.

RAMONA M. GALES,

Appellant.

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**FINAL BRIEF OF RESPONDENT**

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## STATEMENT OF ISSUE ON APPEAL

Limited investigatory seizures are justified if supported by reasonable suspicion. Based on information provided by two reliable confidential informants, Police surveilled Appellant Gales, a known drug dealer, and observed her make two suspected hand-to-hand drug exchanges. Officers detained Gales for less than five minutes to allow a drug dog to walk around her car. Does evidence support the trial court's ruling that the investigatory seizure was reasonable?

## **STATEMENT OF THE CASE**

A York County grand jury indicted Appellant Ramona Gales for trafficking cocaine, second offense. She was tried by jury on January 29–30, 2020, before the Honorable Daniel D. Hall. She was convicted and sentenced to 12 years' imprisonment. This direct appeal follows.

## STATEMENT OF FACTS

Appellant Ramona Gales was the target of a drug investigation by the Charlotte-Mecklenberg police department. (R.p.13). Gales had a pending charge for conspiracy to traffic cocaine, and officers received information from reliable confidential informants that Gales was "still selling" drugs from her home. (R.p.13-14; 44). Police began surveilling her residence.

On January 31, 2018, officers observed Gales leaving her home driving a rental car. (R.p.7-8; 14-15). Officers followed Gales through Charlotte. Detective Buehler observed Gales stop at a gas station and approach a Chevy Tahoe driven by a white male. (R.p.17-18). The white male got out of his vehicle and approached Gales' vehicle. They spoke through the window for roughly 30 seconds before making an apparent hand-to-hand exchange. (R.p.19). Buehler testified at trial that he could not actually see an item change hands, but based on the circumstances he believed it to be a drug transaction. (R.p.19). Officers continued to follow Gales as she got on the interstate and crossed into South Carolina. Gales stopped at a dentist's office in Rock Hill and parked her car next to a Chevy van. (R.p.20-21). A white male exited the van, approached Gales' car, and made an apparent exchange through her open window. (R.p.22). He then drove away and Gales entered the dentist's office. (R.p.22-23).

Charlotte officer Grimsley contacted officers with the Rock Hill police department. (R.p.48). He relayed the officers' observations as well as Gales' criminal history. (R.p.60). Rock Hill officers responded to the scene with a drug-detecting dog.

Thirty minutes later, Gales left the office. (R.p.22-23). Rock Hill officers approached Gales and asked her about the two suspected drug transactions. (R.p.91). They asked for consent to search her vehicle, which she declined to give. (R.p.91; 103). At that point, Officer Todd with the Rock Hill police department deployed his drug dog, MJ, to walk around the vehicle. The dog alerted to the presence of drugs. (R.p.91;98). Though officers did not cuff Gales, they agreed she was not free to leave. (R.p.84; 104).

Officer Ervin testified roughly two minutes passed between the time when officers first made contact with Gales and when the drug dog was deployed. (R.p.73). Officer Todd estimated three to five minutes passed. (R.p.224). After the dog alerted to the presence of drugs, Gales admitted there was cocaine in her car and told the officers where to find it. (R.p.98; 244). Officers searched the car and recovered multiple separately packaged baggies of cocaine weighing a total of 42 grams. (R.p.99; 259).

## STANDARD OF REVIEW

A trial court's Fourth Amendment suppression ruling must be affirmed if supported by any evidence, and an appellate court may reverse only when there is clear error. State v. Taylor, 401 S.C. 104, 108, 736 S.E.2d 663, 665 (2013).

## ARGUMENT

**The trial court correctly refused to suppress drug evidence because reasonable suspicion supported the brief detention of Gales while officers walked a drug-detecting dog around her car.**

Evidence supports the trial court's ruling admitting drug evidence because reasonable suspicion justified the investigative detention of Gales while police walked a drug dog around her car. Police knew Gales had pending drug conspiracy charges, had reliable information from two informants that Gales was actively engaged in selling narcotics, and observed her make two apparent hand-to-hand exchanges during two perfunctory public encounters. Because the limited investigatory stop was justified by reasonable suspicion, the trial court correctly ruled the drugs admissible. This Court should affirm.

Police must, whenever practicable, obtain advance judicial approval of searches and seizures through the warrant procedure. Terry v. Ohio, 392 U.S. 1, 20 (1968). However, the United States Supreme Court has recognized there is "an entire rubric of police conduct—necessarily swift action predicated upon the on-the-spot observations of the officer on the beat—which historically has not been, and as a practical matter could not be, subjected to the warrant procedure." Terry, 392 U.S. at 20. Because the ultimate touchstone of the Fourth Amendment is reasonableness, the constitutionality of these searches is determined by weighing "the governmental interest which allegedly justifies official intrusion upon the constitutionally protected interests of the private citizen, for there is no ready test

for determining reasonableness other than by balancing the need to search (or seize) against the invasion which the search (or seizure) entails." Terry, 392 U.S. at 21.

"The Fourth Amendment does not require a policeman who lacks the precise level of information necessary for probable cause to arrest to simply shrug his shoulders and allow a crime to occur or a criminal to escape. On the contrary, Terry recognizes that it may be the essence of good police work to adopt an intermediate response." Adams v. Williams, 407 U.S. 143, 145–46 (1972). "A brief stop of a suspicious individual, in order to determine his identity or to maintain the status quo momentarily while obtaining more information, may be most reasonable in light of the facts known to the officer at the time." Id. Accordingly, in appropriate circumstances, the Fourth Amendment allows a "limited" seizure of the person based on facts that do not constitute probable cause. United States v. Brignoni-Ponce, 422 U.S. 873, 881 (1975). "While the Court has recognized that in some circumstances a person may be detained briefly, without probable cause to arrest him, any curtailment of a person's liberty by the police must be supported at least by a reasonable and articulable suspicion that the person seized is engaged in criminal activity." Reid v. Georgia, 448 U.S. 438, 440 (1980).

Courts must view the facts supporting reasonable suspicion in the totality of circumstances as they appeared to the officer at the time. State v. Taylor, 401 S.C. 104, 108, 736 S.E.2d 663, 665 (2013) (explaining 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'")

(quoting United States v. Branch, 537 F.3d 328, 337 (4th Cir.2008)). “Just 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.” United States v. Mason, 628 F.3d 123, 129 (4th Cir.2010).

Determinations of reasonable suspicion "must give due weight to common sense judgments reached by officers in light of their experience and training." United States v. Perkins, 363 F.3d 317, 321 (4th Cir. 2004). While courts require more than a mere “hunch” to justify a stop, they also credit the “practical experience of officers who observe on a daily basis what transpires on the street.” Id.

The investigatory stop in this case was supported by two primary sources of information: two informants' tips that Gales was actively engaged in selling narcotics, and two apparent hand-to-hand exchanges witnessed by surveilling officers. Taken together, and viewed in the totality of the circumstances as it appeared to the officers, the information justified a reasonable suspicion that Gales was engaged in drug distribution when she was briefly detained by officers.

First, as to the informants' tips, Detective Buehler testified he received information from two confidential informants that Gales was selling narcotics. (R.p.13). He testified the informants had provided him with information in the past which proved to be truthful. Based on past dealings, he had no concerns about the reliability of their information. (R.p.13).

The police acted reasonably in relying on this information. Even an anonymous tip may give rise to reasonable suspicion provided that the totality of

the surrounding circumstances justifies acting on the tip. State v. Taylor, 401 S.C. 104, 108, 736 S.E.2d 663, 665 (2013) (quoting United States v. Perrin, 45 F.3d 869, 871 (4th Cir.1995)). Reliance on an informant's tip becomes even more reasonable when, as in this case, the informant is known to the officer personally through past dealings. Adams v. Williams, 407 U.S. 143, 146 (1972) (explaining informant's "information carried enough indicia of reliability" to justify investigatory stop where "informant was known to [the officer] personally and had provided him with information in the past"); United States v. Perkins, 363 F.3d 317, 323 (4th Cir. 2004) (explaining where "the informant is known or where the informant relays information to an officer face-to-face, an officer can judge the credibility of the tipster firsthand and thus confirm whether the tip is sufficiently reliable to support reasonable suspicion"). Additionally, in this case officers knew Gales had pending criminal charges for conspiracy to traffic cocaine, further substantiating the information. See United States v. Santos, 403 F.3d 1120, 1132 (10th Cir. 2005) (explaining "in conjunction with other factors, criminal history contributes powerfully to the reasonable suspicion calculus").

Second, police witnessed Gales conduct two apparent drug transactions before the seizure and subsequent search. While Detective Buehler admitted he could not see the actual items changing hands, he testified based on his experience as a narcotics investigator that he believed the exchanges to be drug transactions. He testified he had been working in the "vice-narcotics" unit for three years and had undergone "hundreds of hours of federal, state, and local training of narcotics

investigations, as well as undercover operations, on-the-job training." (R.p.12).

Buehler's experience as a narcotics investigator lends credence to his belief that he was witnessing drug transactions. See United States v. Cortez, 449 U.S. 411, 421–22621 (1981) (explaining the "question is whether, based upon the whole picture, they, as experienced Border Patrol officers, could reasonably surmise that the particular vehicle they stopped was engaged in criminal activity"); State v. Moore, 415 S.C. 245, 255, 781 S.E.2d 897, 902 (2016) (noting officers "extensive training and experience in drug interdiction" as supporting reasonable suspicion). Given Buehler's knowledge of Gales' pending charge for conspiracy to traffic cocaine, the reliable information from two confidential informants that Gales was actively engaged in selling drugs, and his accrued experience as a narcotics investigator, he was justified in his belief that the brief 30-second encounters culminating in apparent hand-to-hand exchanges through the car window were drug transactions.

Not only were the officers' actions based on reasonable suspicion, they were reasonably limited in scope. Gales was detained for less than five minutes while officers led the drug-detecting dog around her car. (R.p.73; 224). Only once the dog alerted to the presence of drugs and Gales admitted there was cocaine in the car did the officers search the car. Accordingly, officers acted reasonably by reducing the intrusion into Gales' privacy until they had more concrete information that there were in fact drugs in the car. The brief three to five minute investigative detention was entirely reasonable in the circumstances. Accordingly, it did not violate the Fourth Amendment. This Court should affirm.

**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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**CERTIFICATE OF COUNSEL**

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The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

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