No. 22-5397 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



TRENTON J. MILLER
Petitioner

V.

UNITED STATES OF AMERICA
Respondent

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

1) Whether 'reasonable suspicion' existed to the level required to detain Petitioner for a 'dog sniff'.

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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## CITATIONS OF OPINIONS AND ORDERS IN CASE

The opinion of the United States Court of Appeals for the Fifth Circuit, which affirmed Petitioner's conviction and sentence, appears at Appendix A. It is an unpublished opinion.

The original conviction and sentence of Petitioner in the United States District Court for the Western District of Louisiana at Shreveport is unpublished and appears at Appendix B of the petition.

## JURISDICTIONAL STATEMENT

The judgment of the United States Court of Appeals for the Fifth Circuit was entered on May 13, 2022. No petition for rehearing was timely filed. The jurisdiction of the Court is invoked under 28 USC 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment of the United States Constitution states:

'The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.'

## STATEMENT OF THE CASE

This Petition for Certiorari follows a conviction by conditional guilty plea for one count of possession with intent to distribute cocaine, in violation of 21 USC 841(a)(1), and Petitioner's subsequent appeal to the Fifth Circuit Court of Appeals. Prior to Petitioner's conditional guilty plea, the district court denied his motion to suppress evidence recovered from his car following a prolonged traffic stop.

On December 7, 2018, Trooper Charles Shorter, a member of the Louisiana State Police, was monitoring traffic from within the median of Interstate 20 in Bossier Parish, Louisiana. During this patrol, Shorter observed a white Honda Accord approaching in the eastbound lane. According to Shorter, the vehicle was traveling 'roughly ten miles below the speed limit'. Shorter also alleged that the Accord's driver 'took a rigid kind of posture' as he approached him. Shorter then claims to witness the vehicle 'cross over the outside fog line on the interstate', thus committing a lane-usage violation. Shorter proceeded to follow the vehicle. Without any other reasons to conduct a traffic stop, he stopped Petitioner based on the allegation that he had crossed the outside fog line. No video evidence exists of this alleged violation. Petitioner immediately pulled onto the shoulder of the interstate. Shorter walked up on the passenger side of the vehicle. Upon reaching the front passenger door, he noticed food wrappers. He then began questioning Miller, first stating that he stopped him for crossing the outside fog line. He then asked for license, registration, and proof of insurance. Petitioner provided his license, registration, and proof of insurance. While Petitioner was gathering these documents, Shorter began questioning him about his reason for travel. In response, Petitioner informed him that he was visiting Louisiana to gamble in the casinos there, specifically, 'the Horseshoe Casino'. Shorter then questioned Petitioner of the vehicle. Petitioner responded that his friend 'Queenie' had loaned him her vehicle so that he could go to the casinos. When asked if 'Queenie' was her real name, Petitioner informed Shorter that her name was Gail. Shorter then returned to his cruiser to process Petitioner's license and registration. In doing so, Shorter learned that Petitioner was under a term of federal supervised release. Shorter then called for a 'drug-detection' dog. While waiting for Trooper Sellers to arrive with a K-9, Shorter attempted to obtain consent to search. It was denied.

After Sellers arrived, more than ten minutes after the 'Rodriguez moment' had passed, he ran the dog around the vehicle. He claimed that the dog indicated a presence of controlled substances in the trunk. As a result, both troppers searched Petitioner's vehicle. Inside the trunk, two kilograms of cocaine was discovered. Petitioner was then arrested.

On February 28, 2019, a federal grand jury returned an indictment charging Petitioner with possession with intent to distribute cocaine in violation of 21 USC 841(a)(1). On June 2, 2019, Petitioner's counsel filed a motion to suppress, arguing that the search of Petitioner's vehicle violated the Fourth Amendment. On August 19, 2019, the magistrate judge held a hearing on Petitioner's motion to suppress. At the hearing, Shorter testified as to what he believed constituted 'reasonable suspicion'. The question of whether a stop was even permitted was not even raised. Nor was video evidence of any traffic violations presented. In support of his claim to having 'reasonable suspicion', Shorter provided 5 observations and his assumptions for each: (1) 'dubious travel itinerary', (2) 'food packaging', (3) answering 'Queenie' to question of vehicle ownership, (4) 'fingerprints on trunk hatch', and (5) Petitioner's criminal history. Sellers also testified, asserting that his dog properly alerted on Petitioner's vehicle.

As expected, the magistrate judge issued a report and recommendation on December 4, 2019 that the motion to suppress be denied. The district court rubber-stamped the magistrate's 'recommendation'.

On January 28, 2021, Petitioner entered a conditional plea, allowing him to appeal the denial of his motion to suppress. Following entry of the guilty plea, the United States Probation Office prepared a presentence report. Petitioner's guideline range was 70-87 months.

On July 8, 2021, Petitioner's sentencing hearing was held. Without any prior notification, the district court imposed an upward variance-supposedly based on Petitioner's criminal history, a factor already considered. Perhaps it was based on Petitioner filing a motion to suppress? In any event, Petitioner was sentenced to 115 months, an upward departure of 28 months.

Petitioner filed a timely notice of appeal. After briefs were submitted to the Fifth Circuit Court of Appeals, all aspects of Petitioner's conviction and sentence were affirmed. Petitioner attempted to obtain a rehearing or rehearing en banc, but after receiving the Fifth Circuit's ruling weeks after it had been handed down, his motion was denied. This petition for certiorari follows.

## REASONS FOR GRANTING THE WRIT

In Berkemer v McCarty, 468 US 420 (1984), followed by Knowles v Iowa, 525 US 113 (1998), the Supreme Court held that the analogue of the common traffic stop was the limited detention authorized by Terry v Ohio, 392 US 1 (1968). While Terry authorized a restricted incidental search for weapons only when 'reasonable suspicion' warrants such, the Court attempted to prevent all traffic stops from becoming an investigation unless circumstances warrant it. The intrusion of being stopped was supposed to be bounded by the justification for the traffic stop. Facts disclosed by inquiry within this limit may give grounds to investigate further, but law-enforcement is barred from taking advantage of a suspect's immobility to search for evidence unrelated to the reason for the traffic stop. This was the Court's intent. In reality, Terry has opened up most of the nation to general searches by allowing law-enforcement to conduct 'dog-sniff' searches whenever they stop someone for a traffic offense. All that is needed to do so is a few 'questionable' facts that can then be claimed to constitute 'reasonable suspicion'.

A routine traffic stop, as occurred in this case, is considered to be more like a brief seizure under Terry than an arrest. It's tolerable duration is determined by the seizure's 'mission'-which in this case was to address the allegation that Petitioner had 'crossed a fog line'. Authority for this seizure ended when the tasks tied to the traffic infraction had been completed.

Beyond determining whether to issue a traffic ticket, an officer's duties during a traffic stop typically includes checking the driver's license, determining whether there are outstanding warrants, and inspecting the automobile's registration and insurance. These checks serve the objective of enforcement of the traffic codes. See Delaware v Prouse, 440 US 648 (1979). In America today, however, so-called 'traffic violations' are being used as cover for warrantless searches that do not have probable cause in support of these searches.

A 'dog sniff' is a measure aimed at drug trafficking. Lacking the same connection to roadside safety as the ordinary inquiries, use of such is not fairly characterized as part of an officer's 'traffic' mission.

After the Court handed down Rodriguez v United States, 575 US 348 (2015), law-enforcement are no longer permitted to extend a traffic stop, as they did in this case, without 'reasonable suspicion'. However, as the Court has found, articulating precisely what 'reasonable suspicion' means is not possible. It is supposed to be a 'commonsense, nontechnical concept' that deals with 'the factual and pratical considerations of everyday life on which reasonable and prudent men, not legal technicians, act'. See Illinois v Gates, 462 US 213 (1983) (quoting Brinegar v United States, 338 US 160 (1949)); see also United States v Sokolow, 490 US 1 (1989).

As a result, the standard of 'reasonable suspicion' is arbitrary and does not have a uniform standard nationwide. An American citizen stopped in some parts of the country will be accused of being suspicious and searched without anything beyond an officer's subjective observations, while in other parts of the country, that same citizen will enjoy Fourth Amendment protections. This disparity requires an intervention by the Court to prevent further erosion of America's Fourth Amendment right to travel without harrassment by law-enforcement.

A. Petitioner Miller Was Illegally Detained For A 'Dog-Sniff' As The Factors Alleged To Constitute 'Reasonable Suspicion' Were Merely A 'Hunch' Of Trooper Shorter

To lawfully extend a stop beyond when the tasks tied to it's initial 'traffic mission' are completed, or reasonably should have been, an officer MUST have an 'objectively reasonable and articulable suspicion that illegal activity is occurring'. See Rodriguez. In determining whether an officer had 'reasonable suspicion', courts must consider 'the totality of the circumstances' in deciding whether the officer had a 'particularized and objective basis for suspecting legal wrongdoing'. See United States v Arvizu, 534 US 266 (2002)(quoting United States v Cortez, 449 US 411 (1981)). But, this does not prevent courts from first analyzing each factor alleged to support a finding of 'reasonable suspicion' before the 'totality of the circumstances' analysis. In fact, courts that do not merely rubberstamp law-enforcement's claim of 'reasonable suspicion' do their analysis in this manner. And, for the government's claim that a 'divide and conquer' analysis is not permitted, do they not address each factor separately and argue how it contributes?

In the case before the Court, it was alleged by law-enforcement that there were five factors which gave Trooper Shorter a 'reasonable suspicion' of criminal activity. These included: (1) 'unconvincing travel plans'; (2) 'inability to name owner of car without reference to documents'; (3) 'food wrappers'; (4) 'fingerprints smudges on trunk'; and (5) 'his previous conviction'. As expected, the district court rubberstamped Shorter's claim of 'reasonable suspicion'. In affirming the district court's denial of his motion to suppress, the Fifth Circuit held that 'the district court did not err in concluding that the trooper developed reasonable suspicion during the traffic stop that Miller was involved in criminal activity'. See Appendix A, Page 2. The Fifth Circuit did not bother to discuss <u>how</u> any of the alleged factors contributed to a finding of 'reasonable suspicion', <u>nor</u> did they explain in ANY detail how 'the totality of the circumstances' resulted in 'reasonable suspicion'. The denial of Petitioner's direct appeal was effectively another rubberstamp.

If this Court decides to correct this injustice, Petitioner wishes to address each alleged factor independently before addressing a 'totality of the circumstances'.

1) 'Unconvincing Travel Plans'

After pulling Petitioner over for an alleged traffic violation, he began questioning him regarding his travel plans. In doing so, Trooper Shorter was informed that Petitioner was traveling from Columbia, South Carolina to Shreveport, Louisiana to spend a day gambling at the Horseshoe Casino. According to Shorter, this was 'dubious, since in HIS experience, people do not travel such a great distance by car to stay at their destination for such a brief period'. However, in questioning Petitioner, there was not a single inconsistency, contradictory answer, or lies.

While it is permitted for law-enforcement to 'draw on their own experiences and specialized training to make inferences from, and deductions about, the cumulative information available', see United States v Arvizu, 534 US 266 (2002), this does not give carte blanche to law-enforcement to find 'suspicious circumstances' in almost every traffic stop. Criteria that are so broad as to subject 'a very large category of presumably innocent travelers' to 'virtually random seizures' are not permitted to support a finding of 'reasonable suspicion'. See Reid v Georgia, 448 US 438 (1980). Other than Petitioner's criminal history, this is exactly what occurred.

Shonter's willful ignorance of the millions of Americans who travel out-of-state to visit casinos every year cannot be considered a factor in support of a finding of 'reasonable suspicion'. Just because HE would not travel out-of-state to visit a casino does not make Petitioner's travel itinerary 'dubious', at least not to an 'objective' observer, as required by Supreme Court precedent.

The record does not support a characterization that Petitioner's explanation of his travel plans were vague, evasive, implausible, or inconsistent. He maintained throughout the entire stop that he was traveling to Louisiana to gamble at the Horseshoe Casino. While 'unusual' or 'truly implausible travel plans', or 'inconsistent answers about travel plans' can give rise to 'reasonable suspicion', Sokolow, 490 US at 9; United States v Kopp, 45 F.3d 1450 (10th Cir 1995), that simply did not occur in this case.

While the government, and the Fifth Circuit in affirming, were correct to cite the general proposition that so-called 'turn-around trips' constitute a factor in support of 'reasonable suspicion', they erred by decontextualizing the cases relied upon. A 'one-day-turn-around' trip can legitimately be deemed of 'dubious plausibility' only when combined with other suspicious factors, 'such as inconsistent answers.'

The cases cited by the government regarding 'dubious' travel plans all featured subjects who, unlike Petitioner, proffered inconsistent stories concerning their travels, making a short stay seem of 'dubious plausibility'. See United States v Flenory, 804 F. Appx 240 (5th Cir 2020) (inconsistent and implausible answers); United States v Fajardo-Guevara, 507 F. Appx 365 (5th Cir 2013) (could not remember city he was coming from). These cases are easily distinguishable from Petitioner's. These additional indicia of suspicion were simply not present. See United States v Freeman, 369 F.3d 776 (4th Cir 2004).

That a defendant is traveling to or from a 'drug source state' is 'so broad as to be indicative of almost nothing'. See Vasquez v Lewis, 834 F.3d 1132 (10th Cir 2016). Moreover, some circuits have concluded that 'the state of residence of a detained motorist is an 'extremely weak factor, at best' in the reasonable suspicion calculus because 'interstate motorists have a better than equal chance of traveling from a source state to a demand state as from a demand state to a source state.'

See United States v Beck, 140 F.3d 1129 (8th Cir 1998). It is wholly improper to assume that an individual is more likely to be engaged in criminal activity because of his state of residence, and thus, any fact that would inculpate every resident of a state cannot support 'reasonable suspicion.' See Vasquez.

Accordingly, it is well past time for the Court to end the pretense that state of residence is a permissable basis upon which to justify the detention and search of American citizens. Because a person travels for a trip to a casino from out-of-state, something millions of Americans do every year, does not permit overzealous troopers to violate their Fourth Amendment rights. This 'factor' should not have been found to contribute to a finding of 'reasonable suspicion.'

2) 'Inability To Name Vehicle's Owner's Real Name Without Referring To Registration'

The second 'factor' provided by the government in their attempt to create 'reasonable suspicion' was that 'Trooper Shorter learned that Miller was driving a car that belonged to a third-party, and that he could not tell Trooper Shorter the car owner's real name without looking at the registration paperwork. This gave Trooper Shorter further basis to think Miller was concealing criminal activity, since it was implausible that the car's owner would trust Miller with her car for an interstate gambling trip, yet Miller not even know that person's real name.' See Gov. Brief, pg 17. As opposed to loaning him her vehicle for a cross-country drug-smuggling trip?

This claim by the government is so absurd it does not even warrant a response. Would someone, the government is basically claiming is a stranger, loan someone their vehicle to go pick up controlled substances in Louisiana but then refuse to loan that same person their vehicle to go gamble in Louisiana? There was no common-sense included in this claim.

This argument from the government was meritless. A detaining officer MUST have a 'particularized and objective basis for suspecting legal wrongdoing'. See United States v Cortez, 449 US 411 (1981). The 'objective' requirement dictates a focus on what a reasonable law-enforcement official in the same or similar circumstance would have thought. The 'particularized' requirement means that such a finding must be 'grounded in specific and articulable facts'. See United States v Espinoza, 490 F.3d at 47 (quoting United States v Hensley, 469 US 221 (1985). Both are required.

Here, it was Shorter's subjective opinion that "it was implausible that the car's owner would trust Miller with her car for an interstate gambling trip, yet Miller not even know that person's real name'. But he subjectively believed that she would loan it for a drug-trafficking trip? Any officer familiar with the African-American communities in America understands that they tend to refer to each other by nicknames and may in fact have known a person for decades but not know what's referred to as their 'government' name. This cultural aspect is not 'dubious'.

In any event, if Shorter did not believe that Petitioner was legitimately loaned the vehicle, does law-enforcement typically call for a K-9 when they suspect a vehicle is stolen? No, they do not. To call for a K-9 after subjectively deeming it 'implausible' that the vehicle's owner would loan Petitioner her vehicle for a trip to the casino is NOT a 'particularized' suspicion of wrongdoing. Does he honestly believe that a person would loan their vehicle to someone to traffic controlled substances, an action that could result in seizure of their vehicle and possibly a charge of aiding and abetting, but not for that same person to go on a one-day gambling trip? Anyone that believes this was an 'objective' analysis is absurd.

In any event, a review of caselaw nationwide reveals that Petitioner's use of a third-parties' vehicle would have been a stronger indicator in support of reasonable suspicion. However, while many courts have held that use of an absent third-parties' vehicle <u>may</u> contribute to a finding of 'reasonable suspicion', it is 'of minimal value because there is an overwhelming majority' of people who do that 'are innocent travelers with entirely legitimate purposes'. See United States v Williams, 808 F.3d 238 (4th Cir 2015); United States v McDuffie, 671 Fed Appx 490 (9th Cir 2016). Under the applicable standard, the factors claimed to support 'reasonable suspicion' should eliminate a substantial portion of innocent travelers'. See Williams. This results in this factor not supporting a finding of reasonable suspicion as the government has claimed.

3) 'Passenger Seat Contained Food Packaging And Wrappers'

The next absurd claim made by Trooper Shorter and the government in their effort to save an illegal search was that 'Trooper Shorter saw the passenger seat contained food packaging and wrappers'. See Gov. Brief, pg. 18. It goes on to allege that, in Shorter's 'opinion', this 'suggested Miller had been driving with no or few stops - a travel itinerary consistent with drug courier's strict schedules and desire to stay in the car with the contraband they are transporting'. See id. On the other hand, this would also be entirely consistent with someone traveling from South Carolina to Louisiana for a short gambling trip to a casino. Any person doing so would probably eat on the way to avoid wasting time stopping to eat. This is yet another example of behavior 'an overwhelming majority of innocent travelers' that does not support a finding of 'reasonable suspicion'.

'The presence of fast-food wrappers in a suspect's vehicle is entirely consistent with innocent travel such that, in the absence of contradictory information, cannot be said to give rise to suspicion of criminal activity'. See United States v Beck, 140 F.3d 1129 (8th Cir 1998). Almost every court that has actually analyzed each factor claimed to support a finding of 'reasonable suspicion' has held that food wrappers in a vehicle does not support a finding of 'reasonable suspicion'. Because 'the presence of food wrappers is not only consistent with his answers to his travel itinerary, but is also entirely consistent with innocent travel such that, in the absence of contradictory information, it cannot reasonably be said to give rise to suspicion of criminal activity'. See United States v Wood, 106 F.3d 942 (10th Cir 1997)(quoting Karnes v Skrutski, 62 F.3d 485 (3rd Cir 1995). However, this is obviously not the view of the Fifth Circuit.

The possession of vestiges of 'food packaging and wrappers' describes such a 'very large category of presumably innocent travelers' that any suspicion associated with these items is 'virtually nonexistent'. See Reid, 448 US at 441. This was yet another 'factor' relied upon to create 'reasonable suspicion' where it did not objectively exist.

4) 'Fresh Fingerprint Smudges'

The next 'factor' relied upon to support the random search of Petitioner was that 'Trooper Shorter noticed the trunk of Miller's car bore numerous fresh fingerprint 'smudges', so new that they stood out from the road grime coating the exterior of the car'. See Gov. Brief, pg 18. They go on to concede that 'fingerprint smudges' and 'food wrappers' may 'be consistent with innocent conduct' but that 'their significance must be viewed in light of the other information'. See id. The circular logic relied upon here is astounding. This is a very obvious attempt by the government to use innocuous facts to justify a violation of Petitioner's Fourth Amendment rights.

In the few cases across the nation in which 'fingerprint smudges' actually contributed to a finding of 'reasonable suspicion', contradictory answers were given concerning the fingerprints. See United States v Flores-Manjarez, 421 Fed Appx 407 (5th Cir 2011). That did not occur in this case. On the other hand, in

Vasquez v Lewis, 834 F.3d 1132 (10th Cir 2016), 'Fresh fingerprints on his trunk' was held to carry 'zero weight' in the 'reasonable suspicion' analysis. Permitting law-enforcement to seize and search American citizens based on such a low bar of 'evidence' should not be permitted by the Court.

5) 'Criminal History'

The final 'factor' relied upon by the government to argue that 'reasonable suspicion' justified detaining Petitioner beyond the 'Rodriguez moment' was Petitioner's criminal history. In their reply brief, the government alleged that 'Trooper Shorter's check of Miller's driver license showed Miller was on current supervised release for a prior cocaine-trafficking conviction, which gave Trooper Shorter further basis to suspect current drug activity'. See Gov. Brief, pg 19.

'A previous criminal history may weigh in favor of 'reasonable suspicion'. See United States v Davis, 636 F.3d 1281 (10th Cir 2011). But, an individual's criminal record, by itself, is not a sufficient basis for 'reasonable suspicion'. 'Even people with prior convictions retain Fourth Amendment rights; they are not roving targets for warrantless searches.' See United States v Santos, 403 F.3d 1120 (10th Cir 2005). If the law were otherwise, 'any person with any sort of criminal record-or even worse, a person with arrests but no convictions-could be subjected to a Terry-type investigative stop by law-enforcement at any time.' See United States v Hammond, 890 F.3d at 907 (10th Cir 2018)(quoting United States v Sandoval, 29 F.3d 537 (10th Cir 1994)); See also United

States v Laughrin, 438 F.3d 1245 (10th Cir 2006).

Here, the government claimed that Petitioner's criminal history, 'especially in light of the other suspicious factors' created 'reasonable suspicion'. But as previously explained, none of these 'other suspicious factors' would be suspicious to an objective and reasonable observer. And, factors that are 'common to innocent travelers' cannot be used to support a finding of 'reasonable suspicion'. The circular logic used here cannot either.

6) 'Totality-Of-The-Circumstances

Standing alone, none of the foregoing factors provide a legitimate basis for a reasonable and articulable suspicion that Petitioner was engaged in criminal activity. Nonetheless, courts must still consider all of the factors together, given that 'reasonable suspicion' may exist even if each fact standing alone is susceptible to an innocent explanation'. See United States v McCoy, 513 F.3d 405 (4th Cir 2008). And, the Court has held that 'when evaluating 'reasonable suspicion', courts must consider 'the totality of the circumstances-the whole picture'. See United States v Cortez, 449 US 411 (1981). A 'divide-and-conquer analysis that only examines each factor claimed to support 'reasonable suspicion' is not permitted'. See District of Columbia v Wesby, 138 S. Ct. 577 (2018). However, this does not bar courts from discussing factors separately. See Wesby, 138 S. Ct. at 586-88 (discussing each factor separately before considering combined effect). In fact, in trying to prove 'reasonable suspicion', the government argues each factor independently. After reviewing each factor, 'the relevant facts articulated by officers and found by the trial court, MUST in their totality, serve to eliminate a substantial portion of innocent travelers. See United States v Williams, 808 F.3d 238 (4th Cir 2015).

In the case before the Court, Petitioner was stopped for a minor traffic infraction. Shortly after, law-enforcement were informed that the driver was on his way home from spending a day at the Horseshoe Casino. In determining this, the trooper was informed that the vehicle was borrowed from an acquantance that did not keep their vehicle very clean, and that the driver had eaten a meal or two in the vehicle while on the road. After running his license and seeing a prior drug conviction, these mundane facts suddenly became 'very suspicious'. These five 'factors', even viewed together, are nothing more than an overzealous state trooper's 'hunch'. Almost every case in which 'reasonable suspicion' was legitimately found nationwide, and even many in which it was not, more evidence than that found here existed. The Court should step in and provide more guidance to law-enforcement and the lower courts so that America does not continue on it's current path to becoming a full-fledged police state.

B. This Is An Issue Of National Importance And Should Be Heard By The Court

That the Courts of Appeal have very different standards regarding 'reasonable suspicion', even though they are all bound by the same Supreme Court precedent, should be of great concern to the Court. Petitioner was accused of crossing a 'fog line' on the interstate. Instead of stopping Petitioner to make sure he was not intoxicated, Trooper Shorter instead conducts a trafficking investigation based on nothing more than food wrappers, fingerprints in grime, and a prior criminal history. He thought it fitting to inject a drug sniffing dog into a simple traffic stop based on nothing more than an overzealous hunch. Even if a 'dog-sniff' is not characterized as a 'search', something most Americans would disagree with, every traffic stop in America could become an occasion to 'call in the dogs' to the distress and embarrassment of law-abiding citizens. To allow the lower courts to rely on such an arbitrary and subjective term as 'reasonable suspicion', to allow the detainment of citizens, clears the way for suspicionless, drug-dog accompanied sweeps of parked cars, sidewalks, parking lots, and apartment building's hallways. Nor will motorists have constitutional grounds for complaint should police with dogs, stationed at long traffic lights, circle cars waiting for the light to turn. Under some circuit's precedent, such as the Fifth's, police only have to claim a finding of food wrappers, fingerprints in smudge, and out-of-state plates in conjunction with a criminal history to uphold a search. While other circuits, such as the Tength, require an ACTUAL showing of 'reasonable suspicion' to be [redacted] deemed legal.

It is this wide disparity between circuits that supports a granting of certiorari in this case. The nation's law-enforcement community needs more guidelines and guardrails on what constitutes 'reasonable suspicion'.

Alternatively, to end the arbitrary and subjective 'interpretation' of 'reasonable suspicion' that has been occurring in our nation, maybe it's time to recognize that the standard created in Terry does not apply to vehicle stops. Many believe that exposing a citizen to a 'drug-sniff' dog constitutes a search. And, that such a search should require a showing of probable cause. This would result in a country more in line with what the Founding Fathers intended.

## CONCLUSION

For the preceding reasons, the Court should grant this petition for a writ of certiorari.

Respectfully Submitted,
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August 09, 2022