

**STATE OF MAINE  
PENOBSCOT, ss.**

**SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT  
DOCKET NO: PEN-24-253**

**STATE OF MAINE,  
Appellee**

**v.**

**JEFF BELONY,  
Appellant**

**ON APPEAL FROM THE UNIFIED CRIMINAL DOCKET**

**BRIEF OF APPELLEE**

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## **PROCEDURAL HISTORY**

On May 26, 2021, the Penobscot County Grand Jury returned an indictment charging Jeff Belony (“Belony”) with one count of Aggravated Trafficking of Scheduled Drugs, Class A<sup>1</sup>, and one count of Criminal Forfeiture.<sup>2</sup> (*State of Maine v. Jeff Belony*, PENCD-CR-2021-00692, Appendix 20 (hereinafter “A. \_\_)). On October 1, 2021, Belony filed a motion to suppress the stop of the vehicle and the search of Belony’s person.

On February 16, 2022, a hearing was begun on the motion to suppress, limited to the issues of reasonable suspicion for the stop and length of detention. (A. 3-4). The motion court ordered the parties to submit arguments in writing after the transcript was prepared. (A. 4). The transcript was not filed until September 6, 2022. *Id.* The motion court set a hearing to address the remaining issues; however, the parties reached a stipulation of facts that was submitted to the motion court on November 22, 2022. The State filed its closing argument on January 15, 2023. (A. 4). Belony filed a Memorandum in Support of Motion to Suppress on January 28, 2023. The State then filed a Supplemental Response on May 13, 2023. (A. 5). The motion court denied the motion to suppress by order dated May 16, 2023. (A. 11-14).

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<sup>1</sup> 17-A M.R.S. § 1105-A(1)(D) (2019).

<sup>2</sup> 15 M.R.S. § 5826 (2021).

On May 10, 2024, Belony entered a conditional plea of guilty to the indictment, with an agreed upon sentence of eight years, with all but four years suspended, four years probation, and a \$400 fine. (A. 15). The trial court stayed Belony's sentence pending the outcome of this appeal. (A. 15).

### **STATEMENT OF FACTS**

Between January 2020 and March 2021, the Maine Drug Enforcement Agency (MDEA) was investigating individuals known as "Heff" and "Mel" for drug trafficking. (Motion Transcript 17-18, February 16, 2022, hereinafter cited as "M. Tr. \_\_."). MDEA Special Agent John Knappe (SA Knappe) took over the investigation in January 2021 and he conducted a pair of debrief interviews. (M. Tr. 20). In one, a confidential source stated Brandy Grover (Grover) (a drug trafficker who was later charged) was being supplied drugs by Heff and Mel that she sold from 26 Woodland Acres in Milo. (M. Tr. 21-22). This source also stated that Heff and Mel were coming from out of state with the drugs. (M. Tr. 22). In another debrief, a cooperating defendant corroborated that Grover was selling drugs at 26 Woodland Acres in Milo, and that she was being supplied by two men who went by Mel and Heff from New York. (M. Tr. 22). This individual further stated Heff would be bringing as much as 200 grams to Grover's residence for another delivery. *Id.*

On March 13, 2021, Officer Michael Harris of the Milo Police Department informed SA Knappe that a confidential source had advised him that Heff would be arriving on March 15 in the evening on the Concord bus in Bangor, and that Belony was referred to as Heff. (M. Tr. 24). Officer Harris further advised that this source was also associated with Belony's girlfriend. (M. Tr. 39).

SA Knappe learned that a bus would be arriving at the Concord Trailways station in Bangor on March 15, 2021, at 6:00pm in the evening. (M. Tr. 25). He and other agents, including SA Dayerrick Ireland, set up surveillance around the bus station. *Id.* Around the arrival time for the bus, SA Knappe noticed a Ford Focus arrive that was registered in Milo. (M. Tr. 26). This was the only vehicle he saw coming to the bus stop registered to any address near Milo. *Id.* When the bus arrived, SA Knappe saw a man who, matched the general physical description of Belony, get off the bus carrying a small bag and walk towards the Focus. (M. Tr. 27). SA Ireland observed the man, later identified as Belony, get into the Focus. (M. Tr. 63). As the Focus left the parking lot, SA Ireland thought he observed Belony not wearing a seat belt. (M. Tr. 64). SA Ireland relayed this information to Officer Lucas Libby and requested that he stop the Focus and identify the passenger based on that violation. *Id.*

Ofc. Libby pulled behind the Focus and separately observed that it had a license plate which was so obscured that it could not be read from a distance.

(M. Tr. 133). Ofc. Libby pulled over the vehicle for that violation and obtained identification from the driver.<sup>3</sup> (M. Tr. 133-134). Ofc. Libby testified that he ordinarily would have identified the passenger immediately as well, but did not on this occasion since it was his first stop in assistance of MDEA, and because he did not see the seatbelt violation SA Ireland thought he saw. (M. Tr. 135).

After he returned to his cruiser with the driver's information, Ofc. Libby called SA Ireland, requested backup, and sought guidance on the situation.<sup>4</sup> (M. Tr. 135-136). Since Ofc. Libby had not assisted MDEA before, there was some confusion where he thought they would be directly assisting with the stop. (M. Tr. 163). While he was talking on the phone, Ofc. Libby had not yet concluded the business of the obscured plate and was still running the driver's information through his equipment. (M. Tr. 136, 143). Their conversation lasted slightly less than six minutes. (M. Tr. 142-143). Immediately after getting off the phone with SA Ireland, and before any other officer arrived on the scene, Ofc. Libby spoke with Belony, who identified himself by name, which was later

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<sup>3</sup> The vehicles were fully stopped at internal timestamp 18:06:21 of Ofc. Libby's Watchguard video. Ofc. Libby reached the driver's window at internal timestamp 18:07:14 of the same video. (State's Exhibit 1).

<sup>4</sup> Ofc. Libby returned to his cruiser and shut his door at approximately internal timestamp 18:09:21 of Ofc. Libby's Watchguard video. His speakerphone conversation with SA Ireland begins at 18:09:47. (State's Exhibit 1).

conveyed to SA Ireland.<sup>5</sup> (M. Tr. 136-137). Officer Ferland soon arrived on scene and took over running the passenger's information and other business of the stop so that Ofc. Libby could deploy his canine. (M. Tr. 137-138). Ofc. Libby also testified that an ordinary traffic stop for him typically lasts for 7-10 minutes. (M. Tr. 157).

Ofc. Libby, a qualified canine handler, deployed his canine and conducted an exterior sniff of the Focus, while Belony was still seated inside, and the canine alerted at the open driver's side door window. (Stipulation in record). The interior of the vehicle was searched, revealing no drugs. *Id.* Ofc. Libby then searched Belony and found a bag of cocaine on his person. *Id.*

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<sup>5</sup> Ofc. Libby arrived at the passenger window for this exchange at internal timestamp 18:15:09 of Ofc. Libby's Watchguard video, 7 minutes and 55 seconds after making first contact with the driver. (State's Exhibit 1).



## **STATEMENT OF THE ISSUES**

- I. Was the stop of the vehicle justified?**
- II. Was the traffic stop improperly prolonged?**
- III. Was the search of Belony's person supported by probable cause?**

## **SUMMARY OF ARGUMENT**

1. Having a plate that cannot be read without standing at the bumper is a traffic violation. SA Ireland's sincere belief that he saw the vehicle leave without Belony wearing a seatbelt also justified the stop, as a mistake of fact discovered after the stop has already occurred does not invalidate it.
2. The period from first contact with the driver to asking for Belony's identification was cumulatively less than eight minutes. Ofc. Libby continued to run the information of the driver while he requested backup and conversed with SA Ireland on speakerphone. Ofc. Libby requesting backup was not unreasonable, his conversation with SA Ireland was related to one of the reasons for the stop, and did not measurably prolong the stop.
3. The indication of the drug detecting canine on the cabin of the vehicle where Belony was sitting, in combination with information that he was involved in transporting drugs, created probable cause to search his person.

## **ARGUMENT**

The Court will uphold the denial of a motion to suppress if any reasonable view of the evidence supports the trial court's decision. *State v. Ouellette*, 2024 ME 29, ¶ 11, 314 A.3d 253. Generally, the Court reviews the trial court's factual findings for clear error and its legal conclusions de novo. *Id.*

### **I. The obscured plate and SA Ireland's belief regarding the seat belt justify the initial stop.**

#### **A. The obscured plate was a traffic violation.**

Officers may conduct a traffic stop when they have reasonable and articulable suspicion that a traffic infraction has occurred. *State v. Gulick*, 2000 ME 170, ¶ 13, 759 A.2d 1085. "Registration plates, including the numbers, letters and words, must always be plainly visible and legible." 29-A M.R.S. § 452(4) (2020). A federal court has observed that the purpose of state laws requiring the display of license plates is to enable law enforcement officers to see and identify vehicles and their owners. *United States v. Hensel*, 509 F.Supp. 1376, 1386 (D. Me. 1981). Thus, an obscured registration plate is a traffic infraction justifying a stop.

The record does not support Belony's contention that the stop of the Focus was unreasonable because the rear license plate was "plainly visible and legible" as required by statute. State's Exhibit 1, immediately after the stop,

clearly demonstrates that the rear license plate of the Focus was so obscured by dirt that it could not be read until Ofc. Libby was standing right at the bumper of the car.<sup>6</sup> Belony does not dispute this fact. (Blue Brief 11-12). Given the significantly obscured appearance of the rear license plate, it was impossible for it to be reasonably identified by officers. Therefore, because the place was not “plainly visible or legible” Ofc. Libby’s stop of the Focus for a traffic infraction on this basis was reasonable.

**B. SA Ireland’s good faith belief that he saw Belony leave the parking lot without a seatbelt on can also justify a stop.**

A *Terry* stop requires, first, that the officer’s action be justified at its inception, and second, that the actions taken by the officer be reasonably related in scope to the circumstances of that justification. *Terry v. Ohio*, 392 U.S. 1, 20 (1968). It is well-settled that a stop can be justified based on the collective knowledge of law enforcement. *State v. Carr*, 1997 ME 221, ¶¶8 & 9, 704 A.2d 353.

Additionally, this Court has previously held that a mistake of fact that is discovered after the stop is executed does not invalidate it. *State v. Hill*, 606 A.2d 793, 795 (Me. 1992). In *Hill*, the officer pulled over a vehicle at night for apparently having no discernible rear license plate. *Id.* After the stop had

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<sup>6</sup> State’s Exhibit 1: Ofc. Libby’s Watchguard video, internal timestamp 18:06.

already occurred, while walking up to the vehicle, the officer saw that there was an unilluminated plate hanging in the rear window of the cab. *Id.* The Law Court held that the discovery of the unilluminated plate in the window did not invalidate the seizure, merely moved its analysis to the second prong of *Terry*, and ultimately vacated the suppression order. *Id.*

The facts of this case are closely analogous to *Hill*. Though the motion court found that Belony was ultimately wearing a seatbelt, it did “not doubt Agent Ireland’s sincerity in [his belief] that he saw Mr. Belony ride away from the bus station without a seatbelt on.” (A. 13). Ofc. Libby was thus permitted to rely upon SA Ireland’s observation as an additional reason for stopping the Focus, as he did not discover SA Ireland’s initial observation was apparently incorrect until making contact with the driver. In the same way as *Hill*, the analysis here should move on to the reasonability of the action taken after the stop’s inception.

## **II. The traffic stop was not improperly prolonged.**

### **A. The call to SA Ireland did not improperly prolong the stop.**

The second prong of *Terry* requires addressing the reasonability of the officer’s actions. *Terry*, 392 U.S. at 20. Traffic stops must be tailored to the justification and may not last longer than necessary to effectuate that purpose. *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). The authority for the

seizure ends when tasks tied to the traffic infraction are, or reasonably should have been, completed. *Id.* Officers can extend the detention, including for a drug sniffing dog, if they develop reasonable articulable suspicion justifying it. *Id.* at 355.

As the motion court found, even by the standards of time elicited from Ofc. Libby for a normal stop of this nature, this stop was not unreasonably prolonged. (A. 13-14). Belony's reliance on the run-time of the video alone is somewhat misleading, as Officer Libby did not catch back up with the Focus until approximately 2 minutes and 30 seconds into the video.

Belony also appears to be conflating the time at which his identity was conveyed to SA Ireland with the time it was obtained by Ofc. Libby. (Bl. Br. 17). Ofc. Libby took the driver's information back to his cruiser just less than two minutes after he first made contact with the driver. Less than 30 seconds later, he began talking to SA Ireland over speakerphone. It is noteworthy that there was no challenge to Ofc. Libby's testimony that he was continuing to run the driver and vehicle information (thus continuing the business of the stop) while he was talking to SA Ireland. (M. Tr. 136, 143). The fact that he was talking to SA Ireland via speakerphone corroborates this detail, indicating Ofc. Libby's hands were free to work.

Additionally, the matters discussed while he continued to attend to the purpose of the stop would themselves not impermissibly delay the stop anyway. Investigative traffic stops are inherently dangerous, and reasonable requests for backup officers are within the bounds of a *Terry* stop. *State v. Donatelli*, 2010 ME 43, ¶ 15, 995 A.2d 238. As in *Donatelli*, the occupant was at least suspected of transporting illegal drugs, and was not alone. *Id.* Ofc. Libby was also attempting to assist another agency's investigation, and it is reasonable to convey the information he'd learned and seek guidance, particularly when doing so while he was otherwise working.<sup>7</sup>

Five minutes and 22 seconds after re-entering his cruiser, Ofc. Libby got off the phone and then walked over to the passenger window, where he identified Belony. This was cumulatively seven minutes and 55 seconds after Ofc. Libby first made contact with the driver (or eight minutes and 48 seconds after the vehicles came to a stop), which is effectively when the collective knowledge of law enforcement included the confirmation that the passenger was in fact Belony. The motion court's 5-to-6-minute period appears to be referring to the delay between identifying the driver and identifying Belony. Belony, on the other hand, appears to be arguing that the point at which the

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<sup>7</sup> While certain comments made by SA Ireland may be unflattering, it does not render the inquiry by Libby inappropriate.

identity was conveyed to SA Ireland directly as controlling, however, Ofc. Libby testified that he obtained the information as soon as he went back to the passenger. (M. Tr. 137) He clearly had to already have that information to be able to pass it on to Ofc. Ferland upon his arrival.

The five minutes and 22 seconds period that Ofc. Libby spent in his cruiser, processing the driver's information while simultaneously asking for a backup officer and consulting SA Ireland, did not stop progress on the original business of the traffic stop. Despite Belony's contrary timeline, his argument that the detention was improperly prolonged up to his identification is inconsistent with the evidence. (A. 14).

**B. The identification of Belony completed a reasonable articulable suspicion he was involved in drug activity.**

SA Knappe articulated several facts known to him leading up to this stop. Two different confidential sources informed him that an individual known as "Heff" was supplying drugs from out of state to Brandy Grover, a known drug trafficker, in Milo. (M. Tr. 21-22). One specified that Heff came from New York, and that he would be bringing back a load of drugs in the near future. Knappe learned that Officer Harris had interacted with Belony and learned (from the mother of Belony's girlfriend or ex-girlfriend) that Belony went by the name "Heff." (M. Tr. 24, 39). Ofc. Harris also learned, from the same source, that



Belony would be coming from New York on a Concord bus back to Bangor on the evening of March 15, 2021, with drugs. (M. Tr. 24). The statements of these three sources mutually corroborate each other, allowing an inference as to their reliability. *See State v. Thompson*, 2017 ME 13, ¶17, 154 A.3d 614.

On March 15, the MDEA agents observed a man that looked similar to Belony getting into the only vehicle they noticed come through the parking lot with plates that came back to the Milo area. The traffic stop established that the man was, in fact, Belony. This corroborated the most recent tip received by Officer Harris. At that point, all these facts taken as a whole from the collective knowledge of the law enforcement officers involved, establish a reasonable articulable suspicion that Belony was, in fact engaged in criminal activity, specifically transporting drugs back from New York to Milo.

### **III. The canine indication generated probable cause to search Belony.**

Probable cause to search exists when there is a fair probability that contraband or evidence of a crime will be found in a particular place. *State v. Martin*, 2015 ME 91, ¶ 9, 120 A.3d 113. Further, an officer may warrantlessly search a person when the officer has probable cause to believe the person is in possession of contraband. *State v. Michael M.*, 2021 ME 92, 772 A.2d 1179. A court may presume that the alert from a certified and reliable detection canine

provides probable cause to search. *Florida v. Harris*, 568 U.S. 237, 246-247 (2013).

Belony does not dispute the qualifications of the dog detection team, that it was deployed appropriately, nor that it indicated at the open driver side window. It's likewise agreed that Belony was still within the Focus when the dog indicated. Belony likewise does not challenge that the dog indication gave probable cause to believe that there were drugs within the Focus.

The combination of the existing reasonable articulable suspicion regarding Belony, with the additional indication of the canine on the cabin of the Focus that Belony was then seated in, would lead a reasonable officer to conclude there's a fair probability drugs would be found on Belony's person. Additionally, the fact that Belony was inside at the indication, but the search of the cabin revealed nothing, by process of elimination further suggests the detected drugs would be on his person.

**CONCLUSION**

For the foregoing reasons, the State respectfully asks that the denial of Belony's motion to suppress and his conviction be affirmed.

Respectfully submitted,

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Dated: October 17, 2024

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**CERTIFICATE OF SERVICE**

I, Jason Horn, Assistant Attorney General, certify that I have sent a native PDF and mailed two copies of the foregoing “BRIEF OF APPELLEE” to Belony’s attorney of record, Hunter Tzovarras, Esq.

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