SUPREME JUDICIAL COURT **Sitting as Law Court**
PEN-25-318

STATE OF MAINE

v.

JEFF BELONY

On appeal from Unified Criminal Docket Bangor

REPLY BRIEF OF APPELLANT, JEFF BELONY

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1. The Legible Plate and Good Faith Exception Did Not Justify the Stop.

The State was not justified because the license plate was plainly visible and legible as required under 29-A MRSA § 452(4). The Court and legislature has offered no requirements as to what distance the plate must be visible and legible. The officer was able to read the plate once close to the rear of the vehicle. (Tr. at p. 133, 156).

The case of *United States v. Hensel*, 509 F. Supp. 1376 (D. Maine 1981), supports the argument that soon long as the plate is legible from any distance the purpose of the statute is satisfied. "The purpose of States requiring the owners of motor vehicles to display license plates is to enable law enforcement officers to see them and to identify the vehicle and its owner." *Id.* at 1386. That purpose was satisfied in this case as the officer was able to read the plate once his cruiser was close to rear bumper.[1]

[1] It is also worth knowing law enforcement previously read and identified the plate when the vehicle was at the bus station (albeit the front plate), which alleviated the purpose of stopping the vehicle to identify its plate number. (Tr. 22, 26).

The good faith exception does not to the alleged seatbelt violation. The lower court made no finding the officer was mistaken; rather the court determined Mr. Belony was seatbelt. The lower court made no findings or conclusions of law on the application of the good faith exception and this Court should do the same.In short, the lower court made a finding Mr. Belony was buckled and this did not support the basis for a stop.

2. The Stop was Delayed Longer Than Necessary for the Purpose of Waiting for the K-9 Officer to Arrive from Across Town.

The State argues the stop was not prolonged by the officer spending several minutes speaking with MDEA while waiting for a K-9 officer to arrive from across town to conduct a sniff of the outside of the car. This argument is not supported by the record. The officer's conversation with MDEA is not part of a typical stop for an obstructed plate. The conversation and delay tactics exceeded the limited scope and purpose of the stop, and was solely for the purpose of waiting for the K-9.

"It is the State's burden to demonstrate that the seizure it seeks to justify on the basis of reasonable suspicion was sufficiently limited in scope and duration to satisfy the conditions of an investigative seizure." *Florida v. Royer,* 460 U.S. 491, 500 (1983).

"The critical question, then, is not whether the dog sniff occurs before or after the officer issues a ticket ... but whether conducting the sniff 'prolongs'-i.e., **adds time to**-'the stop.'" *Rodriguez v. U.S.*, 135 S.Ct. 1609, 1616 (2015). (Emphasis added). The dog sniff added several minutes to the plate stop.

The State cannot account for the 5 minutes and 30 seconds the officer spent talking with MDEA on matters unrelated to the obstructed plate. At the start of the stop, the officer spends 30 seconds talking on the cellphone with MDEA. Tr. 159) (Video 2:45-3:20). After identifying the driver, the officer spends over 5 minutes talking with the officer to waste time while the K-9 officer travels from across town. (Tr. 35, 161) (Video 6:00-11:10). this TIME did add time to the stop, because it did. All of this added approximately 5 minutes and

30 seconds to a stop with no effort being made to complete the purported purpose of the stop.

The earliest possible point the driver could have been identified was 9 minutes into the stop when the officer goes back out of the cruiser and approaches the driver side window. (Tr. at p. 136) (Video 11:10). By this time the officer had wasted 5 minutes and 30 seconds inside the cruiser talking to MDEA and stalling for the backup officer.

The officer did not spend the 5 minutes and 30 seconds in the cruiser checking the driver's information. The conversation was clearly about waiting for a K-9 officer to arrive from across Bangor. Once it's learned the K-9 officer is across time, the MDEA agent says: "Well I guess just let him sit there." The officer is concerned he does not have a basis to delay the stop to wait for the K-9 to arrive. The officer comments: "Dude, I ain't gonna have crap here in a minute, man." The conversation shows the time is not spent conducting the steps for a plate violation, but rather about adding time to the stop for the K-9 to arrive.

3. Law Enforcement Lacked Reasonable Suspicion to Hold Mr. Belony Once he was Identified.

By the time, Mr. Belony was identified, over 5 minutes had been added to the stop waiting for the K-9 officers; and law enforcement lacked reasonable suspicion to hold Mr. Belony once he was identified.

The officers lack corroboration and reasonable suspicion to hold Mr. Belony as "Heff" the suspected drug dealer. Mr. Belony only "matched" the description of "Heff "because they are both black males. Mr. Belony is only one name associated with "Heff." The known information also went against Mr. Belony being "Heff" as it was alleged "Heff" travelled in a White Monte Carlo. For these reasons, the identification of Jeff Belony did not support the continued delay for the K-9 officer to arrive.

4. **Law Enforcement Lacked Probable Cause to Arrest and Search Mr. Belony After the K-9 Alert.**

Probable cause to search must be "particularized with respect to that person." *United States v. Khounsavanh*, 113 F.3d 279, 287–88 (1st Cir. 1997). "[P]robable cause to search exists when there is a fair probability that contraband or evidence of a crime will be found in a particular place." S*tate v. Lux*, 1999 ME 136.

The dog alerting on the driver side window did not particularize the probable cause to Mr. Belony, who was in the passenger seat. While the alert may have given rise to probable cause to search the car or driver, it was not particularized to Mr. Belony, who was seated on the opposite side of the car from where the dog alerted.

The case of *State v. Michael M.*, 772 A. 2d 1179 (Me. 2001), is factually distinct from this case, because in that case there was particularized probable cause that the individual had contraband on him. In *Michael M.*, the defendant was seen smoking a cigarette, which generated probable cause he had cigarettes on him. In this case, there

was nothing pointing directly to Mr. Belony that he had contraband on him.

The case of *Florida v. Harris*, 568 U.S. 237 (2013), also stands for the position that the dog alert has to be particularized to the area or person to be searched. The *Harris* case does not stand for the position that a dog alert automatically provided probable cause to search all occupants of the car.

Therefore, for all of the set forth above, and in the Appellant's principal brief, the Court should find the stop, detention and search unconstitutional.

Dated: September 6, 2025

Respectfully Submitted,

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CERTIFICATION OF SERVICE

I hereby certify a copy of the above brief was emailed to AAG Jason Horn on September 6, 2025 and mailed on September ___, 2025 to AAG Jason Horn, 97 Hammond Street, Bangor, Maine 04401

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