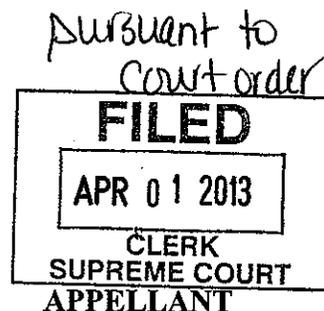


COMMONWEALTH OF KENTUCKY
KENTUCKY SUPREME COURT
FILE NO. 2012-SC-000123-DR
(2010-CA-000176)



COMMONWEALTH OF KENTUCKY

v. APPEAL FROM HARDIN CIRCUIT COURT
HON. KEN M. HOWARD, CHIEF JUDGE
INDICTMENT NO. 09-CR-00143

ASIA F. BUCALO

APPELLEE

APPELLEE'S BRIEF FOR ASIA BUCALO

Submitted by:

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The undersigned does certify that copies of this Brief were mailed, first class postage prepaid, to the Hon. Ken M. Howard, Chief Judge, Justice Center, 120 E. Dixie Avenue, Elizabethtown, Kentucky 42701; the Hon. Jeffrey England, Asst. Commonwealth's Attorney, Suite One, 59 Public Square, P.O. Box 1146, Elizabethtown, Kentucky 42702; the Hon. Josephine Buckner, Asst. Public Advocate, 226 S. Mulberry Street, Elizabethtown, Kentucky 42701; Hon. Ronald E. Hines, P.S.C., 201 N. Main Street, Elizabethtown, Kentucky 42701; and served by messenger mail to Hon. Jack Conway, Attorney General, Office of Criminal Appeals, 1024 Capital Center Drive, Frankfort, Kentucky 40601 on March 22, 2013. The record on appeal was not removed from the Kentucky Supreme Court for the purpose of this Brief.

Erin Hoffman Yang

ERIN HOFFMAN YANG

Introduction

Asia Bucalo accepted a conditional guilty plea to Manufacturing in Methamphetamine, First Degree Trafficking in a Controlled Substance, two counts of First Degree Possession of a Controlled Substance, Possession of Marijuana, and Possession of Drug Paraphernalia. The Court of Appeals reversed the conviction, holding that Ms. Bucalo's detention was illegally extended so that a K-9 could sniff her car, and the police lacked probable cause to search the car. This Court granted the Commonwealth's Motion for Discretionary Review.

Statement Regarding Oral Argument

Ms. Bucalo requests oral argument. Her case involves a Fourth Amendment issue dependent on the totality of the circumstances, and this Court should grant oral argument to ensure the facts are properly applied to the law.

Statement Regarding Cites to the Record

The record on appeal consists of one supplemental videotape of hearings. It shall be cited as VR, date stamp, time stamp. Additionally, the record consists of one volume of trial transcripts, to be cited as TR, page #.

Statement of Points and Authorities

Introduction	i
Statement Regarding Oral Argument	i
Statement Regarding Cites to the Record	i
Statement of Points and Authorities	ii
Counterstatement of the Case	1
CR 76.12(d)(iii).....	1
Ms. Bucalo Leaves the Comfort Inn Suites	1
The Traffic Stop and Detention	2
Officer Payne “Details out the Car” when “Barry” Fails to Alert	4
An Arrest Warrant is Completed 105 Minutes After the Initial Stop	5
The Court Of Appeals Opinion Reversing	5
ARGUMENT	7
The Court Of Appeals Correctly Found that Officers Lacked Reasonable Suspicion to Detain Ms. Bucalo and Engaged in an Artificially Protracted Stop	7
<i>Ornelas v. United States</i> , 571 U.S. 690 (1996)	7, 8
<i>United States v. Cortez</i> , 449 U.S. 411 (1981).....	8
<i>Terry v. Ohio</i> , 392 U.S. 1, 21 (1968)	8, 14
<i>United States v. Bloomfield</i> , 40 F.3d 910 (8 th Cir. 1994)	8, 9, 10
<i>United States v. Sharpe</i> , 470 U.S. 675 (1985).....	11, 13, 15
<i>People v. Rodriguez-Chavez</i> , 938 N.E.2d 623 (Ill. App. 2 Dist. 2010).....	11

<i>State v. Peery</i> , 303 S.W.3d 150 (Mo .App. W.D.,2010).....	11, 13
<i>United States v. Bender</i> , 588 F.2d 200 (5th Cir. 1979).....	11, 13
<i>United States v. Williams</i> , 271 F.3d 1262 (10th Cir. 2001).....	12
<i>United States v. Inocencio</i> , 40 F.3d 716 (5th Cir.1994).....	12
<i>United States v. Owens</i> , 101 F.3d 559 (8 th Cir. 1996).....	12
<i>United States v. French</i> , 974 F.2d 687 (6 th Cir. 1992).....	13
<i>Williams v. Commonwealth</i> , 364 S.W.3d 65 (Ky. 2011).....	13, 14
<i>United Stated v. Cano</i> , 959 F.2d 861 (10 th Cir. 1992).....	14
<i>Sibron v. New York</i> , 392 U.S. 40 (1968).....	15
<i>Epps v. Commonwealth</i> , 295 S.W.3d 807 (Ky. 2009).....	15
Conclusion	16
U.S. Const. Amend. IV.....	16
Ky. Const. § 10.....	16

Counterstatement of the Case

Pursuant to CR 76.12(d)(iii), Ms. Bucalo does not accept the Appellant's statement of the case. The Appellant's statement of the case offers a fragmented version of events which omits key facts. Ms. Bucalo seeks to clarify the events pertinent to the appeal.

Ms. Bucalo Leaves the Comfort Inn Suites

Asia Bucalo was asked to leave the Comfort Suites hotel in Elizabethtown, Kentucky on April 16, 2009. VR 8/18/09 at 16:24:00. Apparently, the hotel staff became suspicious of Ms. Bucalo, who was staying with two men and her young son.¹ They found it unusual that the occupants declined maid service and paid cash for her room. Id. at 16:23:30. Further, they were not satisfied by Ms. Bucalo's explanation for needing the room: that she needed a place to stay while waiting to close on a house. Id. Hotel staffers noted that Ms. Bucalo and the two male renters had local license plates and addresses and found it odd that locals would let a room despite Ms. Bucalo's explanation. Id. at 16:25:30.

The staffers contacted Kentucky State Police Detective Gregory to voice their suspicions and told him that Ms. Bucalo and her fellow occupants had been told to leave. Id. at 16:24:00. Detective Gregory and Detective Green of the Elizabethtown Police Department came to the hotel to investigate. Id. at 16:24:25. They conducted surveillance while Ms. Bucalo and her male companions loaded up their respective cars. Id. Even though in his eyes, they

¹ The hotel staffers who called the Kentucky State Police voicing their suspicions towards Ms. Bucalo and the other renters are not identified by name within the record.

seemed to be in a rush, Gregory had to admit that he did not see anything particularly suspicious. Id. 16:26:30.

When they finished packing, Ms. Bucalo left in a green Honda Accord and Nicholas Duke left driving a white Dodge. Id. at 16:27:30. At that point, Gregory and Green proceeded to search the room Ms. Bucalo had been letting, and again failed to find anything suspicious. Id. at 16:27:50. They also called the EPD and asked them to follow Ms. Bucalo's car and find some reason to make a traffic stop. Id. at 16:28:20.

The Traffic Stop and Detention

Sergeant Kelly of the EPD testified that he was close to the hotel when he received a call requesting he follow Ms. Bucalo and pull her over. Id. at 16:56:50. Shortly thereafter, he saw Ms. Bucalo and her companion, driving in a separate vehicle, run a red light. Id. at 16:59:00. Ms. Bucalo was pulled over in the parking lot of the Ramada Inn shortly thereafter, at 12:40 p.m. Id. at 17:00:00; TR p. 11.

Ms. Bucalo apologized for running the red light and explained that her six-year-old son needed to use the restroom. Id. at 16:59:00. According to Kelly, she asked for permission to take her son to the restroom several times, but he refused to let her go. Id. at 16:59:30. She did not consent to a search of her car. Id. at 17:01:00.

Nicholas Duke, one of the occupants seen leaving the area with Bucalo, was also stopped for running a red light. Id. at 17:00:00. He consented to a

search of his truck and drug paraphernalia was discovered. *Id.* The Court of Appeals noted that “Sergeant Kelly’s testimony is difficult to make out on this point, but it appears that the paraphernalia consisted of pipes used to smoke methamphetamine.” *Opinion Reversing, 2010-CA-176 p. 4.*

The Appellant cites Detective Gregory’s testimony that Bucalo was “free to leave at that point, she wasn’t being detained.” *Appellant’s Brief, p. 2.* The Court of Appeals noted, “Sergeant Kelly admitted that [Bucalo] made multiple requests to take her son to the restroom but her requests were denied.” *Opinion Reversing, 2010-CA-176 p. 11.*

The Appellant states that paraphernalia discovered on Dukes “was related to Ms. Bucalo because the other vehicle was being used to move her stuff from one hotel to another.” *Appellant’s Brief, p. 3.* The Court of Appeals found this assertion unpersuasive. “[T]here was no indication that the paraphernalia belonged to [Bucalo] or was otherwise substantively and directly connected to her.” *Opinion Reversing, 2010-CA-176 p. 11.p. 13.* The testifying officers failed to identify any suspicious about Bucalo’s behavior and not contraband was seen in plain view. *Id.*

The Appellant states that Kelly he usually needed about 15-20 minutes to write a ticket. *Id. at 17:02:30, Appellant’s Brief at 3.* However, Kelly also admitted he had not written the ticket before leaving the scene thirty minutes after initiating the stop, and testified Officer Young was called to the scene and completed the traffic ticket. *Id. at 17:02:30; 17:03:00; TR p. 54.* He did not see Young complete the ticket. *Id. at 17:02:30.* Kelly waited for Detective Gregory to

arrive on the scene before leaving. Id. at 16:30:30. Detective Gregory agreed that he would have arrived around 1:15, or close to it. Id. at 16:51:00. He testified that he came on the scene “sometime around one p.m.” Id. When he got to the scene of the traffic stop, Gregory did not note whether a ticket had been written at that point. Id. at 16:49:20. “Moreover, while Sergeant Kelly testified that a traffic ticket was actually written, the record does not contain a copy of the citation or disclose when one might have been prepared.” Opinion Reversing, 2010-CA-176 p. 10.

Officer Payne “Details out the Car” when “Barry” Fails to Alert

Gregory testified that he and canine officer Sergeant Seth Payne arrived at the Ramada around the same time. However, there was a time lapse between Payne’s arrival and the initial sweep of Bucalo’s car.

Payne testified that his dog, “Barry,” is “a male dog, so I have to let him, you know, use the bathroom and do things like that before we begin our search.” Id. at 17:13:50. He asked Ms. Bucalo to roll up her passenger side window and had “Barry” do a sweep of the vehicle. Id. at 17:13:30; 17:14:13. “Barry” did not alert on the vehicle. Because “Barry” did not initially alert on the car, Payne decided to “detail out.” Id. at 17:24:00.

Payne explained that “detailing out” meant he would pinpoint specific points on the car’s exterior and direct “Barry” to sniff those particular areas. Id. Only after “Barry,” in the process of being “detailed out,” was asked to sniff the area near the driver’s side door did the dog give an alert. Id. at 17:14:50. Payne

claimed that “Barry” was trained to give an “aggressive alert,” i.e., scratching and biting the area of the “hit.” Id. He said he could differentiate when “Barry” smelled drugs versus other odors such as another animal because with the smell of another dog “he starts slobbering out of his nose...it’s just different.” Id. at 17:26:21. Payne reported back to the officers on the scene that the dog had alerted and that they now had probable cause to search Bucalo’s car.

An Arrest Warrant is Completed 105 Minutes After the Initial Stop

Gregory testified he got to the scene shortly after one p.m. and it was 2:30 p.m. when the stop was written up. The traffic stop was initiated at 12:40 p.m. and the arrest citation was issued at 2:25 p.m., 105 minutes later. TR p. 11.

The Court Of Appeals Opinion Reversing

The Court of Appeals reversed the trial court noting “[B]ucalo characterizes the traffic stop as an ‘artificially protracted situation,’ and it is impossible to disagree with this characterization.” Opinion Reversing 2010-CA-176, p. 10.

[T]he trial court found that the dog sniff had occurred “within the detention time for the traffic stop or within a reasonable extension” and attributed the initial traffic stop being “longer than normal” due to “the Defendant’s request to allow her child to use the restroom in an adjacent restaurant.” However, this finding is doubtful. Sergeant Kelly admitted that Appellant made multiple requests to take her son to the restroom but her requests were denied each time. Detective Gregory testified that Appellant was finally allowed to take her son to the restroom, but he did not indicate when this occurred. However, his testimony clearly suggests that the restroom visit did not occur until after he had arrived on the scene. Consequently, we conclude that the evidence does not support

the trial court's finding that the restroom request caused the delay.

Id. at 11.

Likewise, the Court of Appeals rejected the trial court's finding of reasonable suspicion:

While the facts relied upon by the trial court may have established some basis for further investigation by police, they did not provide a sufficient basis for a reasonable suspicion of criminal activity that merited an extension of Appellant's traffic stop beyond the time needed for its legitimate purpose....

Even when we view these facts from the "totality of the circumstances," we are unable to conclude that the Commonwealth demonstrated a reasonable, articulable suspicion that Appellant was engaged in drug-related activity. Certainly there was nothing to justify the substantial additional detention beyond the time needed to complete the initial traffic stop citation. To conclude otherwise would require a piling on of inferences too attenuated to pass constitutional muster.

Id. at p.12-13.

This Court granted the Commonwealth's Motion for Discretionary Review. Because this case was decided correctly, the Court of Appeals Opinion Reversing should be affirmed.

ARGUMENT

The Court Of Appeals Correctly Found that Officers Lacked Reasonable Suspicion to Detain Ms. Bucalo and Engaged in an Artificially Protracted Stop

The Commonwealth cites *Ornelas v. United States*, 571 U.S. 690, 696 (1996) for the sweeping proposition that this Court should defer to “inferences a police officer draws from the circumstances before him.” Appellant’s Brief , p. 9. According to *Ornelas*, the key factors in a determination of reasonable suspicion or probable cause “will be the events which occurred leading up to the stop or search, and then the decision whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to reasonable suspicion or to probable cause.” *Id.*

In Ms. Bucalo’s case, the Commonwealth asks this Court to defer to the officer’s inferences. Yet the officers failed to observe any suspicious behavior or evidence of wrongdoing on Bucalo’s part leading up to the search. As the Court of Appeals noted:

While employees were “suspicious” of the fact that Appellant and the other individuals paid for their room in cash and refused maid service, no criminal activity was observed and police found no indicia of criminal activity when they searched the room. There is no suspicion associated with payment for a hotel room in cash, or refusal of hotel maid service. And the police observed nothing unusual or illegal about the items being loaded from the hotel room into the vehicles.

Moreover, the testifying officers failed to identify anything suspicious about Appellant’s behavior after she was pulled over, and no contraband or drug paraphernalia was seen in plain view in her vehicle. Indeed the only substantive evidence of criminal activity uncovered prior to the search of Appellant’s vehicle was the drug paraphernalia found in the car of Nicholas Duke. Appellant’s only

link to Duke's drug paraphernalia was that Duke told police he was helping Appellant move to another hotel. Certainly, this revelation did not constitute an intervening and independent basis to extend and prolong the traffic stop since there was no indication that the paraphernalia belonged to Appellant or was otherwise substantively and directly connected to her. Even when we view these facts from the "totality of the circumstances," we are unable to conclude that the Commonwealth demonstrated a reasonable, articulable suspicion that Appellant was engaged in drug-related activity. Opinion Reversing, 2010-CA-176 p. 13.

By contrast, in *Ornelas*, an officer became suspicious when he saw a particular model of car favored by drug couriers in a motel parking lot. 517 U.S. at 692. The cars had license plates from California, a "source state" for drugs." *Id.* Officers ran the plates and checked the motel's registry to learn the identity of the men driving the car. *Id.* A federal database of drug traffickers confirmed the men dealt in cocaine and heroin. *Id.* The men consented to the search of the car. *Id.* at 693.

In order to seize someone based on reasonable suspicion, an assessment of the whole picture must yield a particularized suspicion that the *particular individual* being stopped is engaged in wrongdoing. *United States v. Cortez*, 449 U.S. 411, 418 (1981)[emphasis added]. "Chief Justice Warren, speaking for the Court in *Terry v. Ohio*, supra, said that, "[t]his demand for specificity in the information upon which police action is predicated is *the central teaching of this Court's Fourth Amendment jurisprudence.*" *Id.*, emphasis in original, internal citations omitted.

The Commonwealth also urges that an Eighth Circuit Opinion, *United States v. Bloomfield*, 40 F.3d 910 (8th Cir. 1994), "is similar to the case at bar and

this Court should follow the same reasoning.” However, the facts of *Bloomfield, supra*, are easily distinguished from the facts of this case.

For example, like Ms. Bucalo, Bloomfield asked to use the restroom. Unlike Bucalo, who was denied permission to use the restroom several times, Bloomfield was allowed to use the restroom. VR 8/18/09 at 16:59:30; *Id.* at 913. Further, Bloomfield said he did not want to use a restroom at a police station with other officers present. *Id.* Officers then escorted Bloomfield, who was permitted to drive his own truck, to a zone office where no other officers were present. *Id.* When Bloomfield asked how long he had to wait, he was told he needed to wait until the drug dog arrived “*unless he felt that the waiting period was becoming unreasonably long.*” *Id.* [emphasis added]. During the wait, Bloomfield smoked outside the office while the officers waited inside. *Id.*

The officers did not subject Bloomfield to any intrusion or investigation beyond what was necessary for his investigation. *Id.* at 917. They “accommodated Bloomfield’s requests and respected his freedom of movement and privacy.” *Id.* By comparison, Ms. Bucalo told officers that she ran a red light because her young son needed to use the bathroom. VR 8/18/09 at 16:59:00. Her repeated requests to take her child to the bathroom were denied. *Id.* at 16:59:30.

While the officers in *Bloomfield, supra*, made every attempt to make the encounter as brief and unintrusive as possible, Ms. Bucalo’s detention was unreasonable. See 40 F.3d at 913. Sergeant Kelly conceded he could complete a citation in 15-20 minutes, yet he had not completed the ticket upon his departure

thirty minutes after the initial stop. VR 8/18/09 at 17:02:30; 17:03:00; TR p. 54. Detective Gregory and K9 Officer Seth Payne agreed that they both arrived around 1:15. *Id.* at 16:51:00. However, the Court of Appeals held that a great deal of delay could be attributed to Payne, who allowed his dog his dog to relieve himself and acclimate to the area before commencing a sweep of the car. The record reflects that despite his testimony that he arrived with the dog shortly after one o'clock, no ticket was issued until 2:25 p.m., 105 minutes after the initial stop was commenced.

Further, the indicia of reasonable suspicion present in *Bloomfield* was lacking in this case. In *Bloomfield*, the defendant was shaking, had bloodshot eyes, had two radar detectors in a rental truck, wore a pager, and reeked of the "masking odor" of deodorant. 40 F.3d at 912. When asked to exit the car, Bloomfield acted as if he had something to hide, barely rolling down the window and opening the door just enough so that he could squeeze through a narrow opening. *Id.*

Next, the Appellant argues that this court can find reasonable suspicion based on the fact Ms. Bucalo and Mr. Dukes were traveling "in tandem." Appellant cites a *United States v. Sharpe*, as authority that "cars traveling in tandem can lead to reasonable suspicion." Appellant's Brief, p. 11. Yet the *Sharpe* opinion noted several additional factors besides two people traveling together:

Agent Cooke had observed the vehicles traveling in tandem for 20 miles in an area near the coast known to be frequented by drug traffickers. Cooke testified that pickup trucks with camper shells were often used to transport large quantities of

marihuana. Savage's pickup truck appeared to be heavily loaded, and the windows of the camper were covered with a quilted bed-sheet material rather than curtains. Finally, both vehicles took evasive actions and started speeding as soon as Officer Thrasher began following them in his marked car.. *Perhaps none of these facts, standing alone, would give rise to a reasonable suspicion*; but taken together as appraised by an experienced law enforcement officer, they provided clear justification to stop the vehicles and pursue a limited investigation.

470 U.S. 675, 683 (1985)(internal citations omitted).

Clearly, cars traveling in tandem was not the determining factor in *Sharpe, supra*. The vehicles were equipped in an unusual manner often associated with drug trafficking, and traveling in an area known for trafficking.

Likewise, in *People v. Rodriguez-Chavez*, the defendant was at the home of a drug dealer conducting a controlled drug buy with a confidential informant. 938 N.E.2d 623, 625 (Ill. App. 2 Dist. 2010). When the defendant began traveling in the same direction the drug dealer was traveling in order to complete a large sale of cocaine, there was sufficient reasonable suspicion to stop him. *Id.* at 626. see also *State v. Peery* , 303 S.W.3d 150, 154 (Mo .App. W.D.,2010) cited, by the Commonwealth (tandem driving and proximity to person engaged in a controlled buy gives rise to reasonable suspicion).

The Commonwealth also cites to *United States v. Bender*, 588 F.2d 200, 201 (5th Cir. 1979), case involving border patrol. *Bender* is of little use in this analysis. Since border agents may conduct searches at the border or its functional equivalent, neither probable cause nor reasonable suspicion is required. *Id.* Nonetheless a second stop of a car just past the border was upheld

because the agent testified that there were four reasons for ordering the second stop of the first vehicle: (1) the previous detection of marijuana odor; (2) the CB transmission which Hughes overheard; (3) the fact that both cars were traveling to El Campo; and (4) the use of CB Channel 6 was highly unusual, since most transmissions in that vicinity were made on Channel 19. *Id.* In Bucalo's case there was no odor of drugs or signs of contraband in her car, nor was there any use of CB transmissions apparently associated with drug trafficking. See also, *United States v. Williams*, 271 F.3d 1262, 1269 (10th Cir. 2001) ("the officer's training and experience that provided him with the knowledge of how drug traffickers use such devices while driving in tandem"); *United States v. Inocencio*, 40 F.3d 716, 723 n. 9 (5th Cir.1994) (describing the use of two-way radios by drug smugglers).

The Appellant's citation to *United States v. Owens*, is curious, since that case deals with the propriety of a stop rather than the length of detention. 101 F.3d 559, 561 (8th Cir. 1996). Nonetheless, in *Owens*, a member of the group the minivan stopped was traveling with had asked for directions to a part of town known for drug trafficking; the minivan was rented in the name of a person who had been previously arrested in 1992 for possession of crack cocaine, and an occupant of the Cadillac traveling with the van was seen making a blunt. The district court stated "[w]e do not hold today that a car can be stopped without a warrant merely because that car is driving in tandem with another vehicle whose occupants (of the latter vehicle) are reasonably suspected of criminal conduct; rather, it is one factor to be considered in determining whether reasonable suspicion exists." *Id.*

The Appellant states that “in fact, several courts have allowed the reasonable suspicion determination to factor in what was in the other car.” Appellant’s Brief at p. 11. Again, Appellant’s reliance on *Peery, supra*, is questionable because that scenario involved the defendant showing up at a controlled buy. 303 S.W. 3d at 156 (“the fact that Peery arrived in a shopping center parking lot at the precise time and place of a drug transaction is relevant to whether or not the police had reasonable suspicion..”) And, officers discovered marijuana in plain view upon stopping Peery. *Id.* at 158. In *Bender, supra*, officers had discovered 64 pounds of marijuana in the “tandem” vehicle. 588 F.2d at 201. In *Owens*, officers discovered 9mm ammunition. 101 F.3d 560-61, See also *Sharpe*, 470 U.S. 679 (related vehicle had 2,629 pounds of marijuana); *Zarmudi-Carillo*, 499 F.3d at 1208(23 kilograms of cocaine found in false compartment of car traveling in tandem); *United States v. French*, 974 F.2d 687, 690 (6th Cir. 1992)(truck in “convoy” with defendant carrying 4, 457 pounds of marijuana).

Moreover, it is a stretch to characterize Ms. Bucalo and Mr. Dukes as traveling “in tandem” as suspicious given the circumstances. Bucalo and Dukes were living together at the Comfort Inn and asked to leave. They were pulled over shortly after exiting the Comfort Inn, presumably in need of someplace to stay.

The Commonwealth also argues that this case is somehow similar to *Williams v. Commonwealth*, 364 S.W.3d 65, 70(Ky. 2011), apparently based on a theory that Ms. Bucalo’s mere association with one man stopped with an

unnamed piece of drug paraphernalia gave rise to reasonable suspicion. However, in *Williams*, the defendant was with a group of nine men openly smoking marijuana, whereas Ms. Bucalo may not have had any knowledge of paraphernalia on Dukes' person. *Id.* at 67. Further, there was a threat to officer safety as two men were discovered with guns. The "potentially dangerous presence of concealed deadly weapons justifying an investigatory stop of all the persons in this group." *Id.*

Finally, the Commonwealth urges this Court to reverse the Court of Appeals by finding reasonable suspicion based on a mistake of fact. Appellant's Brief, p. 12. According to the Commonwealth, "[t]he officer's belief that they had found drug paraphernalia, albeit found in the other vehicle, related to Ms. Bucalo, even if mistaken, should support the officers' reasonable suspicion to hold Ms. Bucalo for a short period while they worked to confirm or dispel their suspicions." *Id.*

Curiously, the case cited by Appellant, *United States v. Cano*, 959 F.2d 861, 865 (10th Cir. 1992), was remanded for further proceedings. The case involved authority to consent to a search and "[t]he information known to the officer was insufficient to support a reasonable belief in Ms. Garcia's authority." *Id.* at 866. Likewise, the information that Dukes had paraphernalia was insufficient to support a reasonable belief that the paraphernalia belonged to Ms. Bucalo or was otherwise substantively and directly connected to her. In order to seize an individual, a police officer must be able to point to "specific and articulable facts" warranting the intrusion, *Terry v. Ohio*, 392 U.S. 1, 21 (1968),

not a bare assumption that paraphernalia associated with personal use found on another person is somehow “related” to a defendant.

The contraband was deemed “related” to Ms. Bucalo since Duke claimed to be helping her with a move. However, association with a drug user is insufficient to establish reasonable suspicion. *Sibron v. New York*, 392 U.S. 40, 62 (1968). According to the United States Supreme Court, “[t]he inference that persons who talk to narcotics addicts are engaged in the criminal traffic in narcotics is simply not the sort of reasonable inference required to support an intrusion by the police upon an individual's personal security.” *Id.*

Likewise, in *Epps v. Commonwealth*, 295 S.W.3d 807, 809 (Ky. 2009), an officer lacked reasonable suspicion to seize the defendant, based on his association with fellow passenger in the car who was a known drug user. Similar to the case at bar, in *Epps*, a car was stopped based on a simple violation and the passengers were detained in order to obtain a K-9. *Id.* The officer who pulled over the car had previously arrested one of the passengers for drug crimes and believed that he was impaired. *Id.*

Ms. Bucalo also disagrees with the Commonwealth’s implication that she was held “for a short period while they worked to confirm or dispel their suspicions.” Rather than working quickly to dispel their suspicions, the police made no effort to issue a traffic citation or commence a canine sniff in a timely manner. Even assuming *arguendo* that officers had reasonable suspicion the detention was too long to be justified. To assess whether a detention was too long to be justified as an investigative stop, “we consider it appropriate to examine

whether the police diligently pursued a means of investigation that was likely to confirm or dispel their suspicions quickly, during which time it was necessary to detain the defendant.” *Sharpe*, 470 U.S. at 686.

Conclusion

Ms. Bucalo’s continued detention and the delay in completing her traffic citation violated the Fourth Amendment of the United States Constitution and Section 10 of the Kentucky Constitution. The officers lacked a reasonable, articulable suspicion to detain her. This court should uphold the Court of Appeals Opinion suppressing the ill-gotten evidence.

Respectfully Submitted,



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