

CLIFTON JACKSON AFFIDAVIT AND APPENDIX OF EXHIBITS ARE NUMBERED [first two cover pages of affidavit unnumbered, iii-jxiii] IN ROMAN NUMERAL. EXHIBIT PAGES ARE CROSS REFERENCED AS APPENDIX [Appendix Pages are numbered 1-655] PAGES. AFFIDAVIT AND EXHIBITS ARE IN SUPPORT OF 26B MOTION TO REOPEN STATE OF OHIO v. CLIFTON JACKSON, CASE NO. 11CR083104, NINTH DISTRICT COURT OF APPEALS CASE NO. 14CA010555, Not Limited Too,

# EXHIBIT

J

EXHIBITS A-AAAAE IN SUPPORT OF CLIFTON JACKSON ENCLOSED AFFIDAVIT AND APPENDIX PREPARED MARCH OF 2016 OF A DETAILED TIME LINE OF FACTUAL EVENTS BETWEEN JUNE 14<sup>th</sup>, 2011 AND OCTOBER OF 2015 TO THE BEST OF MY LAYMEN LEGAL ABILITIES.  
THIS EXHIBIT "J" IS REFERENCED IN ¶ 61 not limited too.

1 State of Ohio, )  
2 County of Lorain. ) SS:

3 IN THE COURT OF COMMON PLEAS

4 The State of Ohio, )  
5 Plaintiff, )  
6 vs. ) NO. 11CR083104  
7 Clifton Jackson, )  
8 Defendant. )

9 \* \* \*

10 COMPLETE TRANSCRIPT OF PROCEEDINGS HAD IN THE  
11 ABOVE-ENTITLED MATTER ON THE 4TH DAY OF JUNE, 2012, BEFORE  
12 THE HONORABLE EDWARD M. ZALESKI, PRESIDING JUDGE OF SAID  
13 COURT.

14 \* \* \*

15 APPEARANCES:

16 Appearing on behalf of the State of Ohio:

17 Lorain County Prosecutor's Office  
18 By: Jennifer Riedthaler, Assistant Prosecuting Attorney

19 Appearing on behalf of the Defendant:

20 Jack W. Bradley, Esq.

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I N D E X

STATE'S WITNESSES:

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Trooper Chris Beyer	3	21		
Trooper Michael Trader	34	39	44	

I N D E X  
INDEX OF EXHIBITS

STATE'S EXHIBITS:

<u>DESCRIPTION</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 - Copy of Driver's License	P/M	47	47
2 - CD of stop	18	47	47
3 - Citation	21	47	47

P R O C E E D I N G S

1 MS. RIEDTHALER: Good afternoon, Judge.

2 THE COURT: Good afternoon.

3 MS. RIEDTHALER: State of Ohio versus Clifton  
4 Jackson, Case Number 11CR083104. Your Honor, this is set  
5 for hearing on defendant's motion to suppress today.

6 THE COURT: Very well. Ready to roll?

7 MS. RIEDTHALER: Yes. Just give me one moment.

8 MR. BRADLEY: Judge, I'd ask there be a separation  
9 of witnesses.

10 THE COURT: It will be so ordered. Anybody that  
11 expects to testify.

12 MS. RIEDTHALER: Your Honor, State calls Trooper  
13 Beyer.

14 \* \* \*

15 Thereupon, the State of Ohio, in order to  
16 further maintain the issues on its part to be maintained,  
17 called *TROOPER CHRIS BEYER* as a witness, upon being first  
18 duly sworn, was examined and testified as follows:

19 DIRECT EXAMINATION OF TROOPER CHRIS BEYER

20 BY MS. RIEDTHALER:

21 Q. Please state your name, sir.

22 A. Trooper Chris Beyer.

23 Q. And where are you employed?

24 A. With the Ohio State Highway Patrol.  
25

1 Q. In what capacity are you employed there?

2 A. I'm a trooper.

3 Q. And what do your duties as a trooper entail?

4 A. My duties with the Highway Patrol are to aid and  
5 assist motorists, to investigate traffic crashes, and to  
6 enforce traffic violations under the Ohio law when I come  
7 across violations.

8 Q. Were you working in that capacity on June 14th,  
9 2011?

10 A. I was. I was in the uniform of the day,  
11 short-sleeve shirt, and in a marked patrol car.

12 Q. And were you in the area of mile post 135-ish on  
13 that date?

14 A. I was.

15 Q. Okay. Did you have an opportunity to make contact  
16 with a Clifton Jackson on that date?

17 A. I did. He's seated to my right in a tan shirt.

18 Q. How did your contact with him begin that day?  
19 What did you first observe?

20 A. While I was on patrol in the mile marker 133  
21 crossover, I observed a silver Toyota Camry drive past me,  
22 which was following the motor home in front of it too  
23 closely. At which point, when I was able to safely pull  
24 out, I did so. I caught up to the vehicle at mile --

25 Q. I'm going to pause you for one moment. What do

1 you mean following too closely; what was the vehicle doing?

2 A. It was observed following the motor home in front  
3 of it in the right lane about two to three car lengths  
4 away, which is extremely close and a traffic hazard.

5 Q. Why is that traffic hazard?

6 A. Because, from the calculations that our  
7 reconstruction unit has done, you need quite a bit distance  
8 more than that to safely stop if you had to from the  
9 vehicles in front of you. At the speed which I later paced  
10 him at, between 65 and 60, you need 143 feet of distance.  
11 So two to three cars lengths away, it's maybe 45 to 50  
12 feet. So you would need better than two times more than  
13 that stopping distance.

14 Q. Okay. And about how long did you observe him  
15 following too closely?

16 A. Initially when he passed me and then continuing up  
17 to when I was able to get some of the violation on camera,  
18 when I caught back up to him just passing Baumhart Road,  
19 which is the 135. So within a few miles, quite a long  
20 distance of continuing following too closely.

21 Q. What county was he in when you first observed his  
22 vehicle?

23 A. He was in Henrietta Township, Lorain County. And  
24 then the stop occurred in Brownhelm Township, but it was  
25 all the same county.

1 Q. All Lorain County?

2 A. Yes, Henrietta and then in Brownhelm.

3 Q. So when you pulled out after observing him  
4 following too closely --

5 A. Sure.

6 Q. -- did you maintain a visual on his vehicle?

7 A. I did, yeah. I never lost sight. When I caught  
8 up to him, I did activate my camera and tried to, the best  
9 I could, film the violation, which I got some of.

10 Q. Would you say that -- did you conduct a traffic  
11 stop?

12 A. I did.

13 Q. Okay. And what happened when you conducted that  
14 stop?

15 A. When I stopped him, I stopped him at approximately  
16 mile marker 137. I came in contact with -- I stopped the  
17 vehicle, which had PA registration on it, for the violation  
18 there. I came in contact with the defendant, who is seated  
19 to my right. I advised him why I stopped him, and I asked  
20 him for his license, registration and insurance. Keep  
21 proceeding?

22 MS. RIEDTHALER: May I approach, your Honor?

23 THE COURT: Sure.

24 Q. I'm showing you what's been marked as State's  
25 Exhibit 1 for identification. Do you recognize this, sir?

1 A. I do, yeah.

2 Q. What is that?

3 A. That is the defendant's New York driver's license.

4 Q. Is this a fair and accurate copy of the driver's  
5 license that he provided to you that day?

6 A. Yes, it is.

7 Q. Can you please continue?

8 A. Okay. After asking for his license, registration  
9 and insurance, while he was looking for requested  
10 documents, he initially handed me his driver's license,  
11 which was a New York license. I noticed that he was out of  
12 Buffalo, New York. I asked where he was headed to. He  
13 said his cousin's house in Cleveland. I said, "Who owns  
14 the vehicle?" He said, "Well, my cousin owns the vehicle."  
15 I said, "Okay." He then handed me a rental agreement --  
16 or, I'm sorry.

17 While he was looking for the rental agreement, I  
18 said, "Where are you coming from today?" He said, "My  
19 mom's house in --" I'm not sure how to pronounce it "--  
20 Beloit, Michigan there." And then he went on to say that  
21 his mother was sick.

22 After looking at that, he handed me a rental  
23 agreement, which was in the name of a Latrice Thomas.  
24 Looking through that, to verify who should have the vehicle  
25 and such, his name was not on the rental agreement. It was



1 Latrice Thomas was the only person to be on the rental  
2 agreement there. Looking through a little farther, he said  
3 Latrice was his cousin who owned the vehicle. There was a  
4 little confusion there. I wasn't quite sure what he meant  
5 by owned the vehicle, so maybe he meant renter. I'm not  
6 sure.

7 I said when, when did you get the -- I asked when  
8 she rented the vehicle. He stated, "Yesterday, actually."  
9 He then stated that she had the vehicle for a while and  
10 gave it to him. And he goes on to state that his  
11 girlfriend's name was a Latrice Thomas as well, which was  
12 find kind of confusing. I'm not sure what that was all  
13 about. There was something going on there.

14 Q. Initially, he had told you --

15 A. He had told me his cousin owned the vehicle, which  
16 wasn't the case. It was actually rented by a Latrice.  
17 Then he was saying now his girlfriend is his cousin. That  
18 was kind of -- okay.

19 Q. Did this cause you any concern?

20 A. It did. That was kind of odd. So as we further  
21 talked there, while I was looking over the documents he  
22 handed me, I said, "Well, Where's your cousin?" He said he  
23 was going to his cousin's house. He made reference to  
24 Cleveland. I said, "Where at in Cleveland?" And he paused  
25 and he had to think about it, which was a little concerning

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also, because he said he just got the vehicle from his cousin the day before, but he couldn't tell me exactly where he was going. He gave me a place. He said, "Uh, uh, uh," exactly like that. He paused and he said near Stoney Brook or Stoney Point. I don't know of any areas like that out by Cleveland anywhere. And it was quite concerning at that point as far as what his reasons for travel were and why he couldn't tell me where he was allegedly yesterday where he picked up his vehicle or where he was with his cousin. At that point in time, I was able to look through all the documents. I went back to the vehicle then.

Q. At what time was traffic stop initiated?

A. It was 8:44 A.M.

Q. Okay. What, if anything, during the course of your conversation with the defendant did you notice, if anything, about his physical demeanor?

A. When I spoke with him, it seemed like he was very slow and deliberate to give me answers. Not answers that I've had in my eight years of experience that were very quick and to the point. They were very slow and deliberate, like he had to think and was almost making up things as he went. Most of the time when I'll ask a --

MR. BRADLEY: Objection.

THE COURT: Sustained.

A. When I'll ask a question, someone will give me an

1 answer almost immediately. But they were very slow and  
2 deliberate when he gave me these answers. That was quite  
3 concerning as well.

4 Q. Okay. You stated that you walked away from the  
5 vehicle then?

6 A. I did. I went back to my vehicle to further look  
7 at the rental agreement, which can be a little bit  
8 cumbersome and quite large and fine print. I went back and  
9 took his license and rental agreement back with me.

10 Q. Did you determine -- were you able to determine,  
11 after all of those -- after that entire conversation with  
12 the defendant, if he owned that vehicle? Did he own that  
13 vehicle?

14 A. No, he didn't. He actually was not even on the  
15 rental agreement and probably should not have been in that  
16 vehicle either.

17 Q. Did you call anyone to assist you?

18 A. I did. Immediately when I got back to the  
19 vehicle, I radioed Trooper Trader, K-9 handler with the  
20 Highway Patrol, if he could come to my location and assist  
21 me and do a K-9 sniff of the vehicle.

22 Q. And did he arrive?

23 A. He did.

24 Q. At what time did he arrive?

25 A. He got there shortly later, approximately 8:50

1 hours. At which point in time, for safety reasons, as he  
2 was arriving, I went and re-approached the vehicle and  
3 asked Mr. Jackson to come back, so for safety he be in a  
4 location out of the vehicle while he walked around the car.

5 Q. Trooper, if the video that I'll be showing you  
6 layer, shows he arrived at 8:44, would that be accurate?

7 A. There was -- at the time I was having problems  
8 with my video. It wasn't a hundred percent accurate for  
9 the time there. It was a notated issue. And actually,  
10 these times here are based on my incident recall on our  
11 computer, it's called CAD, computer aided design. These  
12 are factual times here. The times are off on that video.  
13 The video is accurate, but the time stamp is wrong on it.  
14 But I was able to --

15 Q. I apologize. Continue.

16 A. I pulled these numbers off of our CAD for my  
17 incident recall as things, as I radioed and stuff. Our  
18 dispatcher logs the exact times and when he arrived. He  
19 shows "arrived" on there. So I was able to pull all these  
20 factual times off of our CAD.

21 Q. Thank you. So if -- how many minutes did Trooper  
22 Trader arrive after you initiated the traffic stop?

23 A. Five to six minutes.

24 Q. Okay, thank you. Why did you call him in? Why  
25 did you call him to assist you?

1           A. Based on my conversation with Mr. Jackson about  
2 the vehicle and his demeanor up there and his answers to my  
3 questions, I felt there was, at that point in time, there  
4 was probably something more going on there. I still wasn't  
5 a hundred percent certain what was going on with the  
6 vehicle and why he would actually have that. Being that he  
7 had a valid license, why wouldn't he rent a vehicle  
8 himself. And the questions were still there as far as why  
9 he couldn't tell me where his cousin lived when he's saying  
10 he got this vehicle from his cousin the day before, and so  
11 on. So I had some concerns about what was actually going  
12 on there.

13           Q. What were you hoping Trooper Trader would do, why  
14 did you call him?

15           A. I was asking him to do a K-9 sniff of the vehicle.

16           Q. Did you need to do that, did you need to call him  
17 in due to the defendant having a rental vehicle?

18           A. No, I didn't have to call him in. Based on the  
19 interaction I had with him, I felt that it would be a good  
20 idea for him to come in and see if there wasn't something  
21 more going on.

22           Q. Did you remove the defendant or -- was the  
23 defendant removed from the vehicle before that happened?

24           A. Yes, he was, for safety.

25           Q. Okay. And where was he placed, what did you do

1 with him?

2 A. He voluntarily -- when I re-approached the  
3 vehicle, asked if he would step out of the vehicle and come  
4 back to my car, he did so voluntarily. At that point in  
5 time, there was also some others issues I had. When he got  
6 out of the vehicle, he took a long time, was very slow and  
7 deliberate again. He looked around in the car, grabbed two  
8 or three cell phones, had them with him, placed them in his  
9 pocket. He made sure he locked the vehicle before exiting  
10 the car, which is all very strange. Why are you locking  
11 your vehicle around police? What are we going to do to  
12 your vehicle?

13 A few minutes later he exits the vehicle. He's  
14 voluntarily pat down, and then he does agree to sit in the  
15 back of his seat there. At which point, Trooper Trader  
16 deployed K-9 Argo for a free-air sniff of the vehicle, and  
17 I watched traffic to make sure that he was safe, he and his  
18 partner were safe while a sniff was done of the vehicle.

19 Q. Is that in the ordinary course of what you would  
20 be doing during that time?

21 A. Yes. Yeah, absolutely. I've always watched for  
22 safety and stuff like that. That's paramount for all  
23 traffic stops.

24 Q. At what point did you call dispatch with the  
25 defendant's information, and were they able to determine

1 anything?

2 A. At the time, I'm not exactly sure of the exact  
3 time I was able to get a hold of dispatch with this info.  
4 Our LEADS was down at the time. They were doing  
5 maintenance on it or there was some issues with it. So at  
6 the time, I wasn't able to give them, or able to have them  
7 check that information. I believe at the time there, while  
8 I was waiting for Trooper Trader, I tried running checks  
9 through LEADS there, and they were all -- they came back  
10 that LEADS was down at time. So after the, after there was  
11 probable cause to search the vehicle, LEADS had then came  
12 up, and then I radioed district, which would be believe  
13 dispatch center.

14 Q. Okay.

15 A. This was around, I would say, 8:59 or 9:00 when  
16 LEADS had went back in service. I believe dispatch had  
17 radioed everyone to say, hey, LEADS is back in service. If  
18 you need anything, you could check on your computer.

19 Q. At that point the K-9 search was done?

20 A. Yes. There was, long before that there was  
21 probable cause and the narcotics were already found.

22 Q. Okay. So Trooper Trader arrives, the defendant is  
23 the seated in your cruiser. What happens next?

24 A. He walks the vehicle, I watch for safety reasons.  
25 After the K-9 positive indication, he advised me that there

1 was an alert to the vehicle, so a probable cause search was  
2 going ensue. This happened at the same time, which I did  
3 not know then, when I reviewed my in-car audio video from  
4 where Mr. Jackson was seated in the back, I heard some very  
5 telling statements and certainly some concerning things as  
6 well.

7 Q. And that's on the tape that you are going to  
8 identify in a little bit?

9 A. It is, yes, it's on the tape here.

10 Q. What were the disconcerting statements?

11 A. He got on the phone and spoke with a female, which  
12 was recorded by the in-car audio. He states, "They're  
13 about to put the dog on me." She says, "Is you serious?"  
14 There's a long pause. And she is -- a pause is heard, and  
15 the conversation followed by the female saying, "Damn."  
16 She asked, "What am I supposed to do?" He says, "Call my  
17 brother." The female asks -- she asks him, the defendant,  
18 Mr. Jackson, "Do you have a lot?" He states, "No."

19 MR. BRADLEY: Objection.

20 THE COURT: Sustained.

21 Q. Just will tell me what the defendant is saying.  
22 What did you hear with regard to the defendant?

23 MR. BRADLEY: Objection. I don't think it has  
24 anything to do with the search, your Honor.

25 THE COURT: I agree.



1 MR. JANIK: He didn't review this until after they  
2 had already done the search.

3 THE COURT: Sustained.

4 Q. Did the K-9 indicate on the vehicle?

5 A. He did.

6 Q. Where did he indicate? Did you observe that?

7 A. Yes, I was. It would be better if Trooper  
8 Trader --

9 Q. Okay.

10 A. -- testified to it, but I observed it. But I  
11 don't want to -- I don't want to testify to something  
12 that's not my dog and I'm trained to work with, so.

13 Q. Did you participate in the search?

14 A. I did, yes.

15 Q. What, if anything, did you find?

16 A. The search began in the front there. Trooper  
17 Trader and I began to search the vehicle. The trunk was  
18 then popped, and there was a huge duffel bag, like an  
19 orange duffel bag that was pulled out. In the front of  
20 the duffel bag was two, two black and duct taped up things  
21 of suspected narcotics; later which we were able to do a  
22 NIC test on it, and it was positive for cocaine in the  
23 amount of two kilograms of cocaine, quite a significant  
24 amount.

25 Q. What did you do in response to discovering that?

1           A. At which point he was, he was advised that he was  
2 under arrest and he was placed in handcuffs. Again, when I  
3 asked him to turn around and put his arms behind his back,  
4 he was on the phone speaking more of which I was later to  
5 find out, and he was very slow and deliberate to that as  
6 well, which continued the whole, through the whole  
7 circumstances there, very slow and deliberate to respond  
8 and to do the things I was asking. At which point, he did  
9 finally turn around. He was placed in handcuffs and  
10 arrested.

11           He was brought to the front of my vehicle for a  
12 search incident to arrest, and I asked if he'd like to  
13 speak about it. He said he didn't want to be  
14 disrespectful, but he didn't want to talk about it. At  
15 which point, my conversations with him about the narcotics  
16 and incident were over because he did ask for  
17 representation.

18           Q. Trooper, I'm going to show you what has been  
19 marked, or will be marked, as State's Exhibit 2 for  
20 identification.

21           Judge, pre -- as an aside, before this hearing  
22 started, the parties agreed that I would just have the  
23 trooper identify the video. It's rather lengthy, it's over  
24 an hour. Rather than playing the entire thing now, for the  
25 court to review later. Is that accurate, Attorney Bradley?

1 MR. BRADLEY: Yes.

2 THE COURT: Yeah, I could review it in chambers.

3 MS. RIEDTHALER: I'm going to approach -- may I  
4 approach?

5 THE COURT: Sure.

6 \* \* \*

7 STATE'S EXHIBIT 2 MARKED FOR IDENTIFICATION

8 \* \* \*

9 Q. Trooper Beyer, there is, as I said, what has been  
10 marked as State's Exhibit 2 for identification. Did you  
11 have an opportunity to review this before this hearing?

12 A. Yes.

13 Q. Okay. And is this a -- here, let me have you  
14 watch a moment of it.

15 \* \* \*

16 (A portion of State's Exhibit 2 was played  
17 in open court.)

18 \* \* \*

19 Q. I'm going to play another portion for you just  
20 midway random point through. Do you recognize this?

21 A. Yes.

22 Q. What is this?

23 A. This is the traffic stop in reference to what  
24 we're speaking about.

25 Q. And whose cruiser recorded this?

1 A. Mine.

2 Q. And at the very beginning of the video, the  
3 portion I just showed you, is that -- what vehicle is that,  
4 what are we watching at beginning of that video?

5 A. This is all from firsthand from my vehicle, my  
6 patrol car.

7 Q. What other vehicle are we observing?

8 A. The defendant's vehicle in question.

9 Q. Okay. The one of which we have been speaking?

10 A. Yes.

11 Q. And is that, what's depicted on the video, is that  
12 the entire time that you observed the defendant's vehicle?

13 A. No. When he initially passed me, I did not, and  
14 wouldn't have been of no value anyways, did not activate my  
15 camera then. When I was able to catch up to the vehicle  
16 and observe some of the violation is when I activated it.  
17 So the entire time I viewed the vehicle was just a few  
18 miles before that.

19 When I did catch back up to him is when I  
20 activated my camera. So there was a minute or two there  
21 before I caught back up to him where I did not have my  
22 camera on. When I began to observe the violation, I  
23 activated my camera there and did the best I could to zoom  
24 in and observe the violation for evidence.

25 Q. And again, how long would you say you observed the

1 violation, like miles, if you can.

2 A. About two miles before, before that was activated  
3 then. So a few minutes. About a mile a minute roughly.

4 Q. What were the traffic conditions that day?

5 A. The traffic conditions were light.

6 Q. What were the weather conditions?

7 A. It was clear and warm. There would have been no  
8 reason why you couldn't change lanes and be somewhere else  
9 other than, you know, than following so closely there.

10 Q. And with regard to the violation, the following  
11 too closely, the length of distance he was behind, at least  
12 on the video observing, a mobile home it appears?

13 A. Yes.

14 Q. Was the distance in between those two vehicles  
15 reasonable?

16 A. No.

17 Q. Okay.

18 A. It was --

19 MS. RIEDTHALER: May I approach, your Honor?

20 THE COURT: Sure.

21 Q. I'm showing you what will be marked as State's  
22 Exhibit 3 for identification. Will you tell me what this  
23 is, sir?

24 A. This is a traffic citation I issued on the date,  
25 on said date for following too close violation that was

1 issued to Mr. Jackson, the defendant.

2 \* \* \*

3 STATE'S EXHIBIT 3 MARKED FOR IDENTIFICATION

4 \* \* \*

5 Q. With regards to this video, State's Exhibit 2 for  
6 identification, is this a fair and accurate representation  
7 of what you observed on June 14th, 2011?

8 A. Yes.

9 Q. With regards to the citation, is this a fair and  
10 accurate copy of a representation of what you, the citation  
11 you issued to Mr. Jackson, the defendant?

12 A. Yes, it's accurate.

13 MS. RIEDTHALER: May I have of a moment, your  
14 Honor?

15 THE COURT: Sure.

16 MS. RIEDTHALER: Nothing further, your Honor.

17 THE COURT: Mr. Bradley.

18 MR. BRADLEY: Thank you.

19 \* \* \*

20 CROSS-EXAMINATION OF TROOPER CHRIS BEYER

21 BY MR. BRADLEY:

22 Q. Did you make a copy of the rental agreement that  
23 you've referred to in your testimony today?

24 A. I don't believe I did, no.

25 Q. So you didn't take that as evidence in this case?

1 A. It was not saved, no.

2 Q. Any reason that you did not save that piece of  
3 evidence for presentation in court?

4 A. I don't typically save rental agreements for  
5 cases.

6 Q. But that's one of the -- that's one of the reasons  
7 that you decided to pull Mr. Jackson out of the vehicle,  
8 because you didn't like the way the rental agreement read;  
9 it's your allegation that he didn't have a right to even be  
10 driving that vehicle?

11 A. Yes. He was not on the rental agreement if that's  
12 what you're asking.

13 Q. You said that it took you, you know, a little bit  
14 of time to even review the agreement because there was a  
15 lot of fine print and so forth?

16 A. Correct.

17 Q. But you did not preserve that agreement?

18 A. I did not save it, no.

19 Q. Now, you said that you were in the crossover at  
20 mile post 133?

21 A. Yes.

22 Q. Is that referenced at all in your report?

23 A. No.

24 Q. In your report, you indicate that you were on  
25 patrol on the Turnpike at mile post 135 eastbound.

1           A. That was where I was to start filming the  
2 violation.

3           Q. That was not an accurate statement in your report,  
4 that you were patrol at mile post 135 on the turnpike?

5           A. Well, my entire shift is a patrol shift. That's  
6 what I -- I was a road patrol unit.

7           Q. Is there any reason why you would leave out that  
8 you were at the crossover at mile post 133?

9           A. It has no bearing here, I don't believe.

10          Q. Well, it certainly had bearing today because  
11 that's what you testified to, correct?

12          A. Okay.

13          Q. But you didn't have anything in your report about  
14 that?

15          A. No, because the violation was able to be filmed  
16 and started on my film at mile marker 135.

17          Q. It's my understanding that you turned on your  
18 camera at approximately mile post 135?

19          A. Yes.

20          Q. Wasn't necessary for you to put your lights on or  
21 anything else, or for you to activate your camera?

22          A. I guess I'm a little confused. Why would I --

23          Q. You didn't have to activate your lights, in other  
24 words, to make a traffic stop to be able to videotape  
25 Mr. Jackson's driving of his vehicle?



1           A. No. Are you referring to our new camera system?  
2 This was an old camera system. I would have actually had  
3 to turn this on prior to. It doesn't pre-date one minute.  
4 Are you thinking of the new camera systems we have?

5           Q. No. I'm just asking you, you can turn on your  
6 camera without having to turn on your lights?

7           A. Yes, you can.

8           Q. So you could have recorded, at any point, you  
9 could have started that camera to record Mr. Jackson's  
10 driving?

11          A. Yeah. It would not have been on video, though,  
12 because there's a certain time between myself being able to  
13 safely pull out and catching up to the vehicle there, where  
14 there would have been no evidentiary value there. You  
15 would not have been able to see it until I caught up to  
16 him, at which point I did activate it.

17          Q. All right. And it's my understanding from the  
18 video that he was following behind this motor home for a  
19 short period of time, at least on the video.

20          A. I would disagree. Well, based on the video, yes.  
21 But I would disagree with the period of time, though,  
22 because it was more than a short period of time. It was a  
23 few miles.

24          Q. I'm talking about on the video, you could see his  
25 vehicle following behind this motor home for a short period

1 of time?

2 A. Yes. In which any period of time is still a  
3 violation that we're talking about.

4 Q. And he was in the inside lane?

5 A. Right lane, correct.

6 Q. And you were in the middle lane?

7 A. Yes.

8 Q. And you were approaching, I take it, at sort of a  
9 rapid speed to catch up to the motor home and Mr. Jackson's  
10 vehicle?

11 A. Prior to me activating my camera, I was able --  
12 yeah, I had to catch up to them, yes. But when I was  
13 filming, we weren't moving at a rapid speed when I  
14 activated my camera.

15 Q. So you had to speed up to catch up to his vehicle?

16 A. Yes.

17 Q. And then Mr. Jackson puts on his blinker, correct?

18 A. I would have to look back in the --

19 Q. Well, you reviewed the video before we came in  
20 here today, didn't you?

21 A. Yeah. To be honest with you, I don't know about  
22 the blinker. I mean, if want to look at it, we can --

23 Q. He did change lanes?

24 A. Yes, he did.

25 Q. And I would take it that if he didn't put on his

1 blinker when he changed lanes, then you would have had that  
2 violation to charge him with also?

3 A. Okay. I guess we can speculate to that.

4 Q. So he put on his blinker to change lanes?

5 A. Okay.

6 Q. So he wasn't behind the motor home any further?

7 A. Okay.

8 Q. Then you continued to follow him once he passed  
9 the motor home, correct?

10 A. Yes.

11 Q. All right. And so you followed him for a distance  
12 of almost two miles, and then you pulled him over?

13 A. No, it wasn't two miles. We were -- at which  
14 point, we were passing there, it's mile marker 135.9. So  
15 we're talking a mile to a mile-and-a-half. At which point,  
16 when he was able to pass the vehicle and I was able to make  
17 a safe traffic stop in a safe area where there's no  
18 guardrail, at which point I did activate my lights and  
19 initiate a traffic stop.

20 The mile, mile-and-a-half in question we're  
21 talking about here, I waited until it was a safe location  
22 where there was no guardrail where we could pull over and  
23 then I did stop him, when he was clear of the motor home.

24 Q. The video shows that at the time you pulled him  
25 over, you had been following him in the center lane, and no

1 other traffic violations were observed?

2 A. No, not that I recall.

3 Q. Now, does the statute in any way say anything  
4 about how far a vehicle has to follow behind another  
5 vehicle when it's on the Turnpike?

6 A. No.

7 Q. The statute just says that it has -- you can't  
8 follow any more closely than is reasonable and prudent?

9 A. And we were well outside of what was reasonable  
10 and prudent based on the facts.

11 Q. That's not the law. That little piece of paper  
12 that you have in your hand is not that the law, is it? The  
13 law is what a person believes is reasonable and prudent.

14 A. My belief was that this was well outside  
15 reasonable and prudent and violation of following too  
16 close.

17 Q. You didn't see Mr. Jackson getting closer to that  
18 motor home as he was behind it, did you?

19 A. He maintained two to three car lengths away from  
20 my contact.

21 Q. And then he did pass that vehicle safely?

22 A. I guess safely is subjective, but, I mean, he did  
23 pass the vehicle.

24 Q. Was there anything that he did when he was passing  
25 that vehicle that was unsafe?

1 A. Not that I recall.

2 Q. You didn't have the to, like, exceed the speed  
3 limit to be able to pass that vehicle?

4 A. No.

5 Q. Because he was going 60, he had at least five  
6 miles an hour to go past the vehicle safely?

7 A. Yeah. At the time, he could actually have went  
8 much faster. It was 70 miles an hour at that point, April  
9 1st of that last year. He was under the speed limit,  
10 actually.

11 Q. So then you pulled him over; he gave you his  
12 license, registration, and eventually gave you this rental  
13 agreement?

14 A. Yes.

15 Q. And the only unusual actions that you saw from  
16 Mr. Jackson is you said that he was slow and deliberate in  
17 giving you answers?

18 A. That wouldn't be the only unusual, though, in  
19 his -- his answers as well as his demeanor were unusual.

20 Q. So his answers also were unusual, in that he said  
21 that he was going to visit his mother -- he was coming from  
22 an area near Detroit and he was going to visit his mother?

23 A. That was part of what he said, yes.

24 Q. And he told you that he was getting off at either  
25 Stoney Ridge or -- Stoney Brook or Stoney Point?

1           A. Yes. And I've never heard that of that, nor do I  
2 know of any location of such.

3           Q. He also told you that this was off of 480, that he  
4 was going to exit off of 480 to look for these streets,  
5 right?

6           A. Yes.

7           Q. You didn't mention that he said he was going to go  
8 on to 480. So that would be consistent with the somebody  
9 that was going to leave the turnpike and they were familiar  
10 with the highway called 480, correct?

11          A. I guess I would disagree. He's saying that -- he  
12 had told me about his cousin being the renter of this --

13          MS. RIEDTHALER: Your Honor, I'm going to object  
14 as far as speculation as to why the defendant, the thought  
15 behind why he may have said something.

16          THE COURT: Overruled.

17          Q. So in other words, he did mention to you he was  
18 looking for 480, and the area was either Stoney Ridge or  
19 Stoney Point?

20          A. Yes. Stoney Brook or Stoney Point, he did mention  
21 that.

22          Q. And you're telling us that because you're not  
23 familiar with any Stoney Point or Stoney Brook off of 480,  
24 that that was consistent with somebody who was acting  
25 unusual?

1           A.. I would say leading up to and this, yes, would  
2           lead me to my disbelief for questioning of this, the  
3           actions and the contact leading up to this would lead me  
4           to, yes.

5           Q. And is there -- and was there anything else; in  
6           other words, was he sweating, was his hand shaking, was he  
7           doing any of other things that I usually hear troopers  
8           testify to that would give them a reason to believe that  
9           something illegal was going on?

10          A. I don't know that I should speculate to what  
11          someone else might say in a previous case, though. That  
12          probably wouldn't be fair here. I don't have that  
13          indicated in here.

14          Q. So you didn't observe any of those things in this  
15          particular case?

16          A. Yeah, and I can't speculate as far as what  
17          somebody else might have done elsewhere.

18          Q. Now, you did say that the dog did alert to this  
19          vehicle?

20          A. Yes. I was advised by Trooper Trader that there  
21          was a positive K-9 alert.

22          Q. Okay. But you didn't actually observe where the  
23          dog actually did alert?

24          A. I was watching traffic. I didn't see the exact  
25          spot, but in our photographs that we have of it, you can

1 see clearly where that was.

2 Q. And you started your search in the interior of the  
3 vehicle I take it?

4 A. Yeah. And then it proceeded to the trunk area  
5 where there was the large orange bag in question, where the  
6 narcotics were found.

7 Q. So I would take it that you believe that that's  
8 where you should start your search, is in the front of the  
9 vehicle?

10 A. Most all the time I begin there, regardless of the  
11 circumstances. I'll begin in the front and work back in  
12 somewhat of a pattern to where I can remember where I've  
13 been.

14 Q. So no matter where the dog alerts, you just go  
15 wherever you --

16 A. I begin in the front, so I can systematically do  
17 it and recall where I've been searching.

18 Q. Now, you indicated in the beginning of your  
19 testimony that you were out there for traffic, enforcing  
20 the traffic laws, patrol the highways. Were you also out  
21 there for drug interdiction?

22 A. If I would come across such a violation, yes, I  
23 would take enforcement on it.

24 Q. Do you have special training for that?

25 A. Well, I've been through the State Patrol's



1 training academy, I've been through several criminal patrol  
2 schools. At the time I was working with the criminal  
3 patrol team. I've had a lot of training and experience and  
4 interactions with other narcotics and such.

5 Q. What do you mean you were involved in the criminal  
6 patrol team? What does the criminal patrol team do?

7 A. Does all of which I just stated to you when I came  
8 up here. We still aid and assist motorists, we still  
9 investigate traffic crashes, and certain points in time  
10 when we come across violations we do enforce the laws.

11 Q. I understand that. But is there something special  
12 that the team that you're involved with also does?

13 MS. RIEDTHALER: Objection, your Honor. I think  
14 that this is outside the scope of the stop.

15 THE COURT: Overruled.

16 A. The criminal patrol team, we target the  
17 quality-of-life violations: warrants, drugs, other crimes  
18 going on. So when we're taking enforcements, we're looking  
19 for things like that.

20 Q. I'm just wondering, when the prosecutor asked you  
21 what you were doing out there on the highway, you didn't  
22 mention that part of your detail was going out there  
23 looking for warrants, drugs, and other things?

24 A. I've always looked for that since day one. I  
25 would arguably say that most troopers go and look for that

1 stuff. That's our job to do this.

2 Q. You were on a special team. You didn't mention  
3 that you were on a special team on this particular day  
4 doing that type of work. I'm just wondering why you didn't  
5 mention that when she asked you what you were doing out  
6 there that particular day.

7 A. I wasn't asked.

8 Q. So when she asked you what were your duties out  
9 there on the highway, you didn't feel that you had to tell  
10 her that part of your duties was this special unit that you  
11 were involved?

12 A. I'm a K-9 handler also. It has, you know, no  
13 bearing on the traffic stop, though.

14 MR. BRADLEY: Nothing further of this witness,  
15 your Honor.

16 THE COURT: Any other questions?

17 MS. RIEDTHALER: Nothing further, your Honor --

18 THE COURT: All right.

19 MS. RIEDTHALER: -- other than State reserving the  
20 right to recall him with regard to the photographs upon  
21 receiving those.

22 THE COURT: Yeah, that's no problem.

23 MS. RIEDTHALER: State calls Trooper Trader, your  
24 Honor.

25 Thereupon, the State of Ohio, in order to

1 further maintain the issues on its part to be maintained,  
2 called **TROOPER MICHAEL TRADER** as a witness, upon being  
3 first duly sworn, was examined and testified as follows:

4 **DIRECT EXAMINATION OF TROOPER MICHAEL TRADER**

5 BY MS. RIEDTHALER:

6 Q. Will you state your name for the record, please  
7 sir?

8 A. Michael Shawn Trader, T-R-A-D-E-R.

9 Q. Where are you employed?

10 A. The Ohio State Highway Patrol.

11 Q. And in what capacity are you employed there?

12 A. I'm a State Trooper assigned to the K-9 Division.

13 Q. How long have you been assigned to the K-9  
14 Division?

15 A. Since 2010.

16 Q. What do your duties entail as part of that  
17 division, sir?

18 A. My primary responsibility is the management of my  
19 K-9; however, I'm also responsible for traffic safety and  
20 criminal patrol.

21 Q. Do you have to have any special training or  
22 certification in order to be a K-9 officer, is that the  
23 right way to say it?

24 A. Yes, ma'am.

25 Q. Okay. What kind of special training or

1 certification, if any, do you have to have?

2 A. I successfully completed a 200 hour class from  
3 Gold Shield K-9's. They're located just outside Columbus,  
4 Ohio.

5 Q. Will you talk a little bit about that training?

6 A. Yes, ma'am. The training included training on  
7 narcotics detection, criminal apprehension, tracking, area  
8 searches, article searches, building searches, obedience.  
9 It was a 200 hour class focused on those subjects. Upon  
10 successful completion, we went through a certification  
11 throughout the State of Ohio, in which the dog successfully  
12 completed all stages of certification.

13 Q. Your dog did?

14 A. Yes, ma'am.

15 Q. What is your dog's name?

16 A. Argo.

17 Q. How long has Argo -- is that dog assigned to you?  
18 Is that the proper way to say it?

19 A. Yes, ma'am. I've been -- started training with  
20 him in September, full-time class in October, 2010, and  
21 he's been with me ever it since.

22 Q. So he's been active for how long then? Is it a  
23 he? Is Argo a he?

24 A. Yes, ma'am, Argo is a boy. He's been certified  
25 since November of 2010.

1 Q. He is certified to do what exactly?

2 A. Narcotics detection, suspect apprehension,  
3 tracking, article searches, area searches, building  
4 searches, and obedience.

5 Q. Were you employed in the capacity as a K-9 officer  
6 on June 14th, 2011?

7 A. Yes, ma'am.

8 Q. And were you working that date?

9 A. Yes, ma'am.

10 Q. Was Argo assigned to you on that date?

11 A. Yes, ma'am.

12 Q. Were you in the area of mile post 135 through 137,  
13 somewhere in that area, during the course of your  
14 employment on that date?

15 A. Yes, ma'am. I backed up Trooper Beyer on a  
16 traffic stop that morning.

17 Q. Do you know what time you arrived that morning?

18 A. No, ma'am.

19 Q. Would 8:50, if I supplied that to you, would that  
20 be accurate?

21 A. I know it was early in the morning. I would have  
22 no reason to object to that time.

23 Q. Why were you dispatched on to that area?

24 A. He called for me to go to his location to do a  
25 free-air sniff of the vehicle.

1 Q. Did you complete, or did Argo I guess, complete a  
2 free-air sniff of the area?

3 A. Of the vehicle, yes, ma'am.

4 Q. Of the vehicle, excuse me. How does that happen;  
5 will you describe that to the Court?

6 A. Yes, ma'am. I deployed my dog in a  
7 counterclockwise pattern, starting at the rear of the  
8 vehicle. When my K-9 reached the driver's side door and  
9 driver's side back door area, he showed a distinct change  
10 in behavior, showing that he was in the odor of narcotics;  
11 his breathing changed; he squared off to the vehicle; then  
12 he indicated to the odor of narcotics by scratching the  
13 vehicle.

14 Q. Where did he scratch the vehicle?

15 A. I believe it was driver's side rear door.

16 Q. What did you do -- and does that -- we've been  
17 using the phrase "indicate."

18 A. Yes, ma'am.

19 Q. When a dog scratches, that means he's indicated?

20 A. Yes, ma'am, that's his indication. His alert is  
21 his natural change in behavior when he smells narcotic  
22 odor. His indication is his trained response. My dog is  
23 trained to scratch when he smells drugs.

24 Q. What happened after Argo alerted and indicated on  
25 the vehicle?

1           A. He was rewarded with a toy; I played with him; I  
2 put him away; and then I assisted Trooper Beyer in the  
3 search.

4           Q. Now, is that -- the steps that you take with  
5 regards to deploying Argo and rewarding after, are those  
6 steps that are taken every time?

7           A. No -- well, yes, ma'am. He's not rewarded with a  
8 toy every time, but he is rewarded every time. Whether he  
9 finds drugs or not, he receives praise and play. The  
10 actual praise amount that he receives when he doesn't find  
11 drugs is more intense and more playful than the play that  
12 he receives when he does find drugs.

13          Q. You conducted a search afterwards?

14          A. Yes, ma'am. I assisted Trooper Beyer with a  
15 probable cause search.

16          Q. How did you obtain the probable cause to begin  
17 that search?

18          A. Positive K-9 indication on the vehicle.

19          Q. Did you have any other probable cause in which to  
20 search that vehicle?

21          A. From what I understand, Trooper Beyer had spoke  
22 with --

23               MR. BRADLEY: Objection.

24               THE COURT: Sustained.

25          Q. Are you aware if the defendant owned the vehicle?

1 A. He did not own the vehicle, ma'am.

2 Q. Are you aware that the vehicle was a rental  
3 vehicle?

4 A. Yes, ma'am.

5 Q. Do you need probable cause to search a vehicle if  
6 the defendant is driving a rental vehicle that is not in  
7 his name, do you need separate probable cause, excuse me?

8 A. No, ma'am.

9 Q. Did you search the vehicle?

10 A. Yes, ma'am. I assisted Trooper Beyer with the  
11 search of the vehicle.

12 Q. He testified as to what was found. Let me see.  
13 May I have one moment, your Honor?

14 THE COURT: Sure.

15 MS. RIEDTHALER: Nothing further, your Honor.

16 THE COURT: Mr. Bradley.

17 \* \* \*

18 CROSS-EXAMINATION OF TROOPER MICHAEL TRADER

19 BY MR. BRADLEY:

20 Q. So it's your testimony that if I'm driving a  
21 rental vehicle you don't, that that's probable cause in and  
22 of itself to search that vehicle that I'm driving?

23 A. If you're simply driving a rental vehicle?

24 Q. Yeah.

25 A. No.



1 Q. Oh, I thought that's what you just told the  
2 prosecutor.

3 A. That's not what she said.

4 Q. If somebody is driving a rental vehicle, then you  
5 just can search it; the probable cause to search is I'm  
6 driving a rental vehicle.

7 A. That's not what she said, sir.

8 Q. What did she say?

9 THE COURT: Just the opposite.

10 Q. Oh. If I'm not driving a rental vehicle --

11 A. I'm confused. She's speaking of State versus, I  
12 believe it's, Ramberg, it's case law, stating that if the  
13 renter of the vehicle is not present and the person  
14 operating the vehicle is not on the rental agreement, they  
15 have no -- they have no expectation of privacy because they  
16 have no legal reason to be in the vehicle. It's case law  
17 out of Lake County Common Pleas from 2011, I believe.

18 Q. So it's pretty important to preserve that rental  
19 agreement, right?

20 A. Yes, sir.

21 Q. But you guys didn't preserve the rental agreement  
22 in this case, are you aware of that?

23 THE COURT: He's given me Lakewood Municipal Court  
24 law.

25 MR. BRADLEY: Oh, Lakewood Municipal Court.

1 THE WITNESS: No, sir, I'm not. It's Lake County  
2 Common Pleas.

3 THE COURT: That's a little different then. It's  
4 not in the Ninth District.

5 Q. In any event --

6 A. Yes, sir.

7 Q. In any event, your dog alerted to the driver's  
8 side of the vehicle or the passenger side?

9 A. The driver's side, sir.

10 Q. The driver's side of the vehicle. And you say  
11 that it alerted to the rear door of the vehicle?

12 A. Yes. To the best my knowledge, it was a rear door  
13 area of the vehicle, not necessarily at the door, but that  
14 area is where he showed his change in behavior. I want to  
15 say the back of the rear door, front of the rear quarter in  
16 that area.

17 Q. Well, you have -- it scratched, right?

18 A. Yes, sir.

19 Q. So there are scratch marks on the vehicle?

20 A. Yes, sir.

21 Q. And then you -- so once it scratches, then you  
22 give the dog a reward?

23 A. Correct.

24 Q. Whether you find drugs or not, the dog still gets  
25 a reward, right?

1           A. The dog gets a reward when he indicates, and he  
2 gets a reward when he sniffs a vehicle and does not  
3 indicate.

4           Q. I understand that. I mean, there's sometimes that  
5 your dog alerts and you give it a reward and then you don't  
6 find drugs, right?

7           A. Yes, sir.

8           Q. So as long as it alerts, it gets a reward? Every  
9 time it alerts, it gets a reward?

10          A. Not every time. He gets praised every time.  
11 Sometimes he gets a toy, sometimes he doesn't. He always  
12 gets rewarded, just not necessarily with a toy.

13          Q. That's what I said. So every time that the dog  
14 alerts, it gets a reward?

15          A. Right, every time he alerts and every time he  
16 sniffs and doesn't alert.

17          Q. So even when he's wrong, he gets a reward?

18          A. Are we talking about on the side of the road, sir?

19          Q. Yeah.

20          A. I can't tell you if and when he's ever been wrong.

21          Q. Why not? Don't you keep records of that?

22          A. We don't. And just because we don't find drugs  
23 doesn't mean that we -- it means we could have missed them,  
24 or the odor was there and the drugs are already gone.  
25 There's no way for us to tell on the side of the road

1 whether the dog is right or wrong. The only way to tell  
2 that is in training.

3 Q. You understand that one of the judges in our court  
4 has found that you and your dog are not credible means of  
5 detecting the odor of cocaine, you understand that, don't  
6 you?

7 A. I believe I am familiar with that case.

8 Q. That's the State of Ohio versus Antwonne Duke?

9 A. I am very familiar with that case.

10 Q. All right. So at least one of the judges in this  
11 court, in Lorain County, has found that your dog and you  
12 are not reliable in detecting cocaine from a sniff by your  
13 dog?

14 A. I have to read the case, but I know what case  
15 you're talking about. I do understand part of the case. I  
16 haven't actually seen the report.

17 Q. And you didn't, you didn't find any drugs in the  
18 compart -- the passenger compartment of the vehicle, did  
19 you?

20 A. I don't believe so. I don't know for sure.  
21 That's not where the bulk of the drugs were located, I do  
22 know that.

23 Q. If the report indicates that there were no drugs  
24 found in the interior of the vehicle, you would be willing  
25 to accept that, wouldn't you?

1 A. Absolutely.

2 Q. Because you helped conduct the search, right?

3 A. Yes.

4 Q. It wasn't until you went into the trunk of the  
5 vehicle and found this orange duffel bag, correct?

6 A. I remember the duffel bag, yes.

7 Q. And you then had to open that duffel bag that was  
8 in the trunk, and that's where you located this cocaine?

9 A. Correct.

10 Q. Your dog did not alert to the trunk of the  
11 vehicle, did it?

12 A. No, he did not.

13 MR. BRADLEY: Nothing further of this witness,  
14 your Honor.

15 THE COURT: Any further questions, Ms. Riedthaler?

16 MS. RIEDTHALER: One moment, your Honor.

17 THE COURT: Sure.

18 MS. RIEDTHALER: Your Honor, may I approach the  
19 witness?

20 THE COURT: Sure.

21 \* \* \*

22 REDIRECT EXAMINATION OF TROOPER MICHAEL TRADER

23 BY MS. RIEDTHALER:

24 Q. I'm going to show you what has previously been  
25 marked as State's Exhibit -- and I'm not sure, Cathy, if

1 I'm on -- was it 2, the CD?

2 MR. BRADLEY: I'd stipulate, Judge, that that's  
3 the video.

4 Q. And if you can't answer this question, great. If  
5 you can't, just let me know. I'm showing you what's  
6 previously been marked as a State's Exhibit. I'll have to  
7 confirm the number. It's the video that Trooper Beyer  
8 identified as having been in his vehicle on this date.

9 A. Yes, ma'am.

10 Q. Now, I'm going to fast forward for a moment to  
11 when the vehicle is stopped, and I'm just going to let it  
12 play. If I could have the Court's leniency for one a  
13 moment. I'm going to let this play for a moment.

14 Now, Trooper, if you could just watch this for a  
15 moment, can you tell me which direction the wind is blowing  
16 in this video?

17 \* \* \*

18 (A portion of State's Exhibit 2 was played  
19 in open court.)

20 \* \* \*

21 MR. BRADLEY: Objection. This is redirect. I  
22 don't think that was anything that was --

23 MS. RIEDTHALER: Well, it will -- your Honor,  
24 state's offering --

25 THE COURT: Overruled.

1           A. Looking at the leaves, it looks like the wind is  
2 possibly from the south or southwest.

3           Q. Now, would that have any -- and that would be,  
4 then, going from which side to which side of the vehicle?

5           A. The passenger side to driver's side or passenger  
6 rear to driver front.

7           Q. Would that have any impact, Trooper, on how the  
8 dog would indicate, or would that lend -- does that  
9 information explain anything with regards to how the dog  
10 would indicate on the vehicle or where the dog would  
11 indicate?

12           MR. BRADLEY: Objection.

13           THE COURT: I'll sustain. It's in the trunk of a  
14 car in an orange duffel bag. I don't know how the wind's  
15 going to be blowing that around.

16           MS. RIEDTHALER: With regard to the smell of  
17 narcotics.

18           THE COURT: You can answer.

19           A. The wind could or could not change the way the dog  
20 indicates. The dog's indicating where the odor is escaping  
21 the most from the vehicle. Because the drugs were found in  
22 the trunk, it doesn't mean they were not in the front of  
23 the vehicle before that. It doesn't mean that the odor was  
24 escaping most out of the passenger side instead of the  
25 driver's side or back. The wind is a key part of the

1 information. It can change where the dog indicates, but  
2 different seams on a vehicle can also change where the dog  
3 indicates.

4 MS. RIEDTHALER: No further questions, your Honor.

5 MR. BRADLEY: No questions.

6 THE COURT: You're free to step down. Thank you.

7 THE WITNESS: Thank you, sir.

8 THE COURT: Exhibits are admitted, 1, 2, 3.  
9 License, citation -- 4. Did I miss one?

10 MR. BRADLEY: The tape, I think, was 1, Judge.

11 THE COURT: She had --

12 MS. RIEDTHALER: No, just three, your Honor. I  
13 apologize.

14 THE COURT: The driver's license, the tape was 2,  
15 and the citation was 3.

16 MS. RIEDTHALER: Correct, your Honor. Thank you.

17 THE COURT: All right. Very well. We will set it  
18 for part two.

19 MR. BRADLEY: Thank you, your Honor.

20 THE COURT: Sure.

21 MS. RIEDTHALER: Thank you, your Honor.

22 \* \* \*

23 HEARING CONCLUDED

24

25



