EXHIBIT

V

EXHIBITS A-AAAE IN SUPPORT OF CLIFTON JACKSON ENCLOSED AFFIDAVIT AND APPENDIX PREPARED MARCH OF 2016 OF A DETAILED TIME LINE OF FACTUAL EVENTS BETWEEN JUNE 14th, 2011 AND OCTOBER OF 2015 TO THE BEST OF MY LAYMEN LEGAL ABILITIES.
THIS EXHIBIT "V" IS REFERENCED IN ¶ 71 not limited too.

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

STATE OF OHIO Plaintiff, v. CLIFTON A. JACKSON Defendant.	)	CASE NO. 11-CR-083104 JUDGE EDWARD ZALESKI **MOTION TO RECONSIDER MOTION TO SUPPRESS**

Now comes Clifton Jackson, by and through undersigned counsel, and respectfully moves this Honorable Court to reconsider the Motion to Suppress filed on November 4, 2011.

A memorandum in support is attached hereto and incorporated herein by reference.

Respectfully submitted,

JACK W. BRADLEY CO., L.P.A.

JACK W. BRADLEY, 0007899
Counsel for Clifton Jackson
520 Broadway, Third Floor
Lorain, Ohio 44052
P: (440) 244-1811
F: (440) 244-3848

1

MEMORANDUM IN SUPPORT

Facts

On June 14, 2011, Trooper Beyer of the Ohio State Highway Patrol, while on routine patrol, had occasion to witness a vehicle that was following two to three car lengths behind a motor home. Trooper Beyer initiated a traffic stop of the vehicle and the driver was later identified as Clifton Jackson.

Trooper Beyer questioned Mr. Jackson regarding the rental vehicle, where he was coming from, and where he was headed. Trooper Beyer took Mr. Jackson's driver's license and the rental agreement for the vehicle in order to run a check on Mr. Jackson. Once back at his patrol car, Trooper Beyer requested assistance from a K-9 unit. Mr. Jackson was then asked from his vehicle. Trooper Beyer requested Mr. Jackson's consent to search the vehicle, to which Mr. Jackson declined. Mr. Jackson was searched and placed in the rear of the police cruiser. The K-9 arrived and performed a sniff of the vehicle, and allegedly was alerted to the driver's side. The Troopers then performed an exhaustive search of the vehicle and its contents. Two kilograms of cocaine were found in a large orange duffel bag in the trunk.

Mr. Jackson was charged with Aggravated Drug Trafficking, Possession of Cocaine, and Criminal Tools. This matter came before the Court on the Motion to Suppress filed by Mr. Jackson on June 5, 2012 and continued on July 23, 2012. The Court denied the Motion to Suppress on September 28, 2012 after a full hearing.

Law

I. A warrantless seizure and search absent reasonable and articulable suspicion of further criminal activity is unconstitutional. The seizure, continued detention, and search of Defendant and his vehicle in the instant case occurred in the absence of reasonable and articulable suspicion of criminal activity. Therefore, any evidence seized is inadmissible as fruit of an unconstitutional search and seizure.

In the case of State v. Lewis (9th Dist. 2012) 2012-Ohio-5114, Trooper Foxx with the Ohio State Highway Patrol stopped a vehicle with a California license plate that was following too closely behind a tractor trailer. Id at ¶2 reciting State v. Davenport (9th Dist. 2012) 2012-Ohio-4427 at ¶2. Mr. Lewis was the driver of the vehicle and Mr. Davenport the passenger. Id. The car was rented to Mr. Davenport's girlfriend who was not present at the time of the stop, but Mr. Lewis was identified as an additional driver. Id. Mr. Lewis informed Trooper Foxx they were traveling to Buffalo, NY. Id. Trooper Foxx proceeded to call a K-9 unit to walk around the vehicle and began to run Mr. Lewis' and Mr. Davenport's driver's licenses. Id. Trooper Foxx conducted the computer check and after determining that neither had any outstanding warrants, he issued a warning for the traffic violation. Id. Trooper Menges then arrived on scene with the K-9 and Mr. Lewis and Mr. Davenport were placed in the back of the cruiser while the walk around of the vehicle was performed by the K-9. Id. The dog alerted to the left, rear-door seam and a block of marijuana was found in the trunk. Id.

Mr. Lewis filed a motion to suppress which was denied. Id at ¶3. After entering a plea of no-contest and being sentenced to three years of community control, Mr. Lewis filed a motion for a delayed appeal which was granted. Id. Mr. Lewis' assignment of error was that

the trial court erred in finding that the officers had established probable cause that a crime had been committed and therefore were not justified in prolonging the detention while a drug interdiction dog arrived on scene. Id.

The court in State v. Lewis cited again to State v. Davenport (9th Dist. 2012) 2012-Ohio-4427 at¶6 stating:

> "[T]he detention of a stopped driver may continue beyond [the normal] time frame when additional facts are encountered that give rise to a reasonable, articulable suspicion of criminal activity beyond that which prompted the initial stop. Such analysis encompasses the totality of the circumstances and th[us] a court may not evaluate in isolation each articulated reason for the stop. The reasonable and articulable suspicion analysis is based on the collection of factors, not on the individual factors themselves. Reasonable suspicion requires that an officer be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant [the] intrusion. However, [a]n officer's reliance on a mere hunch is insufficient to justify a stop, or to expand the scope of a traffic stop." Id at ¶5.

The court concluded that the trooper did lack reasonable suspicion to prolong the stop and again cited to State v. Davenport (9th Dist. 2012) 2012-Ohio-4427 at¶10 summarizing:

> "[T]he constellation of factors present in this case does not create a reasonable suspicion that Mr. [Lewis] was engaged, or about to be engaged, in criminal activity. Instead, this situation seems far from atypical or unusual. Often people rent cars when traveling. Further it is not uncommon for people traveling under a tight deadline to have a messy vehicle, particularly when the people are running late. The inclusion of the facts that the car was from California, that the person who rented the car was not present, and that the Defendants said they were late for a court date, while perhaps not common, does not tip the scales, particularly in light of the fact that the additional driver on the rental agreement was the driver of the vehicle at the time of the stop." Id at ¶5.

Because the trooper lacked reasonable suspicion to prolong the stop, the trial court erred in failing to grant Mr. Lewis' motion to suppress. Id at ¶6.

Similar to the above case, Mr. Jackson was stopped for following too closely (two to three car lengths) behind a motor home. In addition, as in the above case, Mr. Jackson was driving a rental vehicle that had been rented by his girlfriend, Latrice Thomas, who was not present. When asked by Trooper Beyer to where he was traveling, Mr. Jackson informed him that he was coming from his mother's house in Beloit, Michigan and en route to his cousin's house in Cleveland, Ohio. Mr. Jackson provided Trooper Beyer with his driver's license and the rental agreement to the vehicle. Trooper Beyer informed Mr. Jackson he was going to perform a check of his (Jackson's) license, and that Mr. Jackson would then be on his way. Instead, Trooper Beyer immediately requested a K-9 unit to join him on scene to perform a sniff of the vehicle. Trooper Beyer indicated on the record that at the time he returned to his cruiser, the LEADS program was down due to maintenance and therefore he was not able to have Mr. Jackson's information checked. (14)

When questioned as to why he requested a K-9 unit, Trooper Beyer testified that based on Mr. Jackson's demeanor and answers to his questions, he felt as though something more was going on. (12) In addition, he said he still was not one hundred percent certain as to what was going on with the vehicle and why Mr. Jackson could not tell him where his cousin lived. (12) However, Trooper Beyer testified that when he asked Mr. Jackson where he was traveling to, he answered he was going to his cousin's house in Cleveland near Stoney Brook or Stoney Point. (8-9)

Based on the totality of the factors present in this case, Trooper Beyer did not have reasonable suspicion that Mr. Jackson was engaged or about to engage in criminal activity.

Trooper Beyer alleges that his suspicion was based on Mr. Jackson's demeanor and answers to his questions. However, Mr. Jackson answered every question that was asked of him; he was specific as to where he was coming from and where he was headed. He provided Trooper Beyer with his driver's license and the rental agreement for the vehicle. The fact a vehicle is rented does not give rise to reasonable suspicion of criminal activity. This remains true when the primary individual on the rental agreement is not present at the time of the stop. Trooper Beyer has failed to point to specific and articulable facts, when taken as a whole, would warrant the intrusion. In this case, Trooper Beyer was simply relying on an inchoate hunch, as he indicates on the record that he felt "there was probably something more going on." (12) As stated above, a mere hunch is insufficient to expand the scope of a traffic stop. Therefore, because Trooper Beyer lacked reasonable suspicion to prolong the stop, the Motion to Suppress should be granted.

Respectfully submitted,

JACK W. BRADLEY CO., L.P.A.

JACK W. BRADLEY, 0007899
Counsel for Clifton Jackson
520 Broadway, Third Floor
Lorain, Ohio 44052
P: (440) 244-1811
F: (440) 244-3848

CERTIFICATE OF SERVICE

The foregoing Motion to Reconsider Motion to Suppress was served on the State by forwarding a copy of same to the Lorain County Prosecutor Dennis Will, or his representative, 225 Court Street, 3rd Floor, Elyria, OH 44035 this 16 day of November 2012.

Jack W. Bradley