

**IN THE ARIZONA SUPREME COURT**

STATE OF ARIZONA,

Appellee,

v.

ASALIA GUDALUPE ALVAREZ-SOTO,

Appellant.

Arizona Supreme Court Case  
No. CR-24-0281-PR

Arizona Court of Appeals  
No. 2 CA-CR 2023-0200

Pinal County Superior Court  
No. S1100CR201703501

**BRIEF OF *AMICUS CURIAE* ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE IN  
SUPPORT OF APPELLANT**

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## **INTEREST OF *AMICUS CURIAE***

Arizona Attorneys for Criminal Justice (AACJ), the Arizona state affiliate of the National Association of Criminal Defense Lawyers, was founded in 1986 to give a voice to the rights of the criminally accused and to those attorneys who defend them. AACJ is a statewide not-for-profit membership organization of criminal defense lawyers, law students, and associated professionals dedicated to protecting the rights of the accused in the courts and in the legislature, promoting excellence in the practice of criminal law through education, training and mutual assistance, and fostering public awareness of citizens' rights, the criminal justice system, and the role of the defense lawyer.

AACJ offers this brief because the issues presented in this case go to the heart of AACJ's mission: protecting Arizonans from unreasonable government searches and seizures. For that reason, AACJ urges this Court to affirm the majority decision below. The majority's finding that the trial court abused its discretion in denying Alvarez-Soto's motion to suppress was necessary to correct unreasonable burden-shifting by the trial court. Additionally, the State's argument that the Department of Public Safety (DPS) trooper made a reasonable mistake of law ignores the facts presented at the evidentiary hearing, where the trooper conceded he knew the law such that there was no such mistake. Allowing a mistake of law argument under these circumstances would render nearly all traffic stops lawful no matter the

underlying facts. Moreover, affirming the trial court's decision would inject vagueness into traffic statutes by allowing law enforcement discretion in interpreting traffic statutes in a manner supporting their ends so long as the interpretation is not unreasonable – irrespective of whether it is legally proper.

Also, independent review of video evidence is proper in cases such as this, particularly where the trial court failed to make any factual determinations that would be entitled to deference. Independent review serves the integrity of truth-finding functions of the courts by encouraging trial courts to make factual findings justifying decisions and explaining how they perceive the video evidence.

### **SUMMARY OF ARGUMENT**

The Fourth Amendment's prohibition against unreasonable traffic stops would be reduced to a nullity if police, without any deterrent, are allowed to apply pressure to drivers to create traffic violations or are permitted to interpret traffic statutes in a manner that leaves a driver no option other than to violate a traffic law. In this case, the trooper not only applied such pressure but also unreasonably interpreted the law and facts to seek to provide a justification for a stop when there was no such justification. Validation of stops under such circumstances would invite "investigatory stops of substantial numbers of innocent people...merely on the basis of an intuitive hunch." *State v. Gonzalez-Gutierrez*, 187 Ariz. 116, 120 (1996). To avoid such circumstances, police must possess a "particularized and objective basis"

to believe a person stopped committed a traffic violation. *State v. O’Meara*, 198 Ariz. 294, ¶ 7 (2000).

The majority correctly determined that “[e]very traffic stop is subject to the constitutional imperative that it not be unreasonable under the circumstances.” *State v. Alvarez-Soto*, 258 Ariz. 417, ¶ 11 (App. 2024) (quoting *Whren v. United States*, 517 U.S. 806, 810 (1996)) (internal quotes omitted). Critically, the majority noted “[o]bservations that do not reliably distinguish between innocent and unlawful behaviors do not establish reasonable suspicion because they may cast too wide a net and subject all travelers to virtually random seizures.” *Id.* (quoting *State v. Sweeney*, 224 Ariz. 107, ¶ 16 (App. 2010)) (internal quotes omitted). The majority thus properly refused to approve of traffic stops “based on facts that neither constitute a violation of the law nor constitute reasonable grounds to suspect the driver has committed an offense.” *Id.* (quoting *State v. Livingston*, 206 Ariz. 145, ¶ 9 (App. 2003)). These basic and foundational tenets of Fourth Amendment jurisprudence cannot be disturbed.

The State contends that the majority improperly conducted an independent review of video evidence, engaged in statutory interpretation rather than examining the question of articulable, reasonable suspicion, and disregarded possibilities that the trooper made a mistake of law or fact and/or could have pulled Alvarez-Soto over for speeding. All the State’s arguments are misplaced. First, the State itself

engaged in argument regarding what the video showed, demonstrating disagreement with the defense and inviting de novo review of the video evidence because the trial court made no factual findings that would be entitled to deference. Second, interpretation of the statute at issue is absolutely necessary to assess the reasonability of the trooper's interpretation of the statute that gave rise to his decision to make the traffic stop. Finally, the record does not support the State's position respecting a mistake of fact or speeding.

This Court should not countenance the State's positions. Doing so risks obliterating the Fourth Amendment rights of drivers on Arizona roadways, inviting rampant racial profiling and circumstances in which police will have discretion to stop any driver at any time by "mistakenly" bending traffic laws to support otherwise impermissible stops. Moreover, the trial court's lack of any explanation respecting its decision left no factual determinations entitled to the level of deference propounded by the State. The court of appeals majority correctly recognized that the rights of all who travel Arizona roadways cannot be sacrificed on the altar of respecting police decisions to stop and detain travelers.

## ARGUMENTS

### **I. The court of appeals majority correctly determined that the trial court abused its discretion in denying Alvarez-Soto's motion to suppress.**

The denial of a motion to suppress is reviewed for an abuse of discretion. *State v. Thompson*, 252 Ariz. 279, ¶ 26 (2022). "However, whether there is a sufficient

legal basis to justify a stop of a vehicle is a mixed question of fact and law,” and a court reviews de novo the trial court’s legal determinations, “including its ultimate determination of whether reasonable suspicion supported the stop.” *Alvarez-Soto*, 258 Ariz. 417, ¶ 8 (citing *State v. Evans*, 237 Ariz. 231, ¶ 6 (2015)) (internal quotes and brackets omitted). “An error of law constitutes an abuse of discretion,” including an error made in reaching a discretionary conclusion. *State v. Primous*, 242 Ariz. 221, ¶ 10 (2017); *Thompson*, 252 Ariz. 279, ¶ 26. In reviewing a ruling on a motion to suppress, only the evidence presented at the suppression hearing may be considered. *State v. Naranjo*, 234 Ariz. 233, ¶ 4 (2014).

**A. The State had the burden to show Alvarez-Soto violated a traffic law, and the trial court abused its discretion by failing to hold the State to its burden.**

At a suppression hearing, the State has the burden to prove the lawfulness of acquisition of evidence. Ariz. R. Crim. P. 16.2(b)(1); *Alvarez-Soto*, 258 Ariz. 417, ¶ 20 (citing *State v. Hyde*, 186 Ariz. 252, 266-68 (1996)). In this case, the stop was based solely on an alleged violation of A.R.S. § 28-721(B), which states:

On all roadways, a person driving a vehicle *proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing* shall drive the vehicle in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(Emphasis added). Thus, it was the State’s burden to prove, by a preponderance of

the evidence, that there was reasonable suspicion to believe Alvarez-Soto violated all elements of the statute.

The State failed to carry its burden. Other than the video, the State presented sparse evidence at the hearing. There was disputed testimony about different speeds at which Alvarez-Soto was driving at different times and whether she was passing or being passed by a car on the right. She was driving in the middle lane of three lanes. Evidence presented respecting the “conditions then existing” was that the weather was clear, R.T. 1/11/19 ep 40, that traffic was medium to light but there were “several” vehicles around Alvarez-Soto, *id.* ep 61, and that Alvarez-Soto was within the flow of traffic, *id.* ep 85-87. Given these facts, the State failed to present any evidence whatsoever indicating Alvarez-Soto was driving “at less than the normal speed of traffic at the time and place and under the conditions then existing.” In other words, the State presented no evidence that Alvarez-Soto was being passed by traffic in general, only that a single car may have passed her on the right after she slowed slightly – and there was no evidence respecting the speed of the passing car, so it could have been going much faster than the flow of traffic.

Because the State failed to present any evidence that the trooper had a reasonable suspicion that Alvarez-Soto was driving in a manner violating A.R.S. § 28-721(B), the trial court abused its discretion because it failed to hold the State to its burden of proof. It implicitly—and impermissibly—shifted the burden to the

defense to disprove a violation of the statute. Moreover, there appears to be a dispute as to whether Alvarez-Soto was passing the vehicle on her right or was being passed. The trooper testified the car was passing Alvarez-Soto, but also admitted that the car was along her right “the entire time until it pumped away.”<sup>1</sup> R.T. 1/11/19 ep 62, 72. But the defense expert testified the video showed Alvarez-Soto was about to pass the car on the right and backed off when the trooper approached on her left side. *Id.* ep 83-85. So the State did not appear to have even shown that Alvarez-Soto was being passed on the right when the trooper pulled her over.

On appeal, the State repeatedly claims the trooper could have pulled Alvarez-Soto over for speeding. However, the record does not support the State’s contention. The trooper testified that he could not be certain of Alvarez-Soto’s speed, and that he never used radar. *Id.* ep 53, 58. Even his speculation of a top speed of 78 miles per hour was based on his speed, not Alvarez-Soto’s speed, and he admitted the speedometer in his car had not been calibrated. *Id.* ep 55, 58. Thus, there is insufficient evidence that Alvarez-Soto was speeding (and the trial court never found she was speeding).

Furthermore, the State is unable to establish a speeding violation because

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<sup>1</sup> Given the lack of follow up and absence of trial court findings, there is nothing in the record to indicate what the trooper meant by this. However, the most sensible interpretation would be that passage of Alvarez-Soto occurred because the car on the right accelerated away, rather than Alvarez-Soto slowing. It seems no one picked up on this subtle admission by the trooper.

Arizona law requires including in a speeding citation “[t]he speed at which the defendant is alleged to have driven and the maximum speed applicable within the district or at the location.” A.R.S. § 28-707(A)(1). Since the trooper did not document Alvarez-Soto’s speed, only his own speed, he could not have stopped her for speeding. It is precisely for this reason that parties are prohibited from raising new legal theories on appeal that the facts from the evidentiary hearing cannot support. *State v. Brita*, 158 Ariz. 121, 124 (1988).

**B. The evidence does not support the contention that the trooper made a mistake of law—much less an objectively reasonable mistake—and instead shows he engaged in a deliberate attempt to manipulate the statute to his benefit.**

The State claims the majority “failed to consider the reasonableness of any factual or legal mistake the trooper may have made in the stop.” State Supplemental Brief at 3. It argues that even if this Court agrees that the court of appeals majority correctly interpreted A.R.S. § 28-721(B), the trooper’s interpretation of the statute was objectively reasonable. *Id.* at 7. However, the facts adduced in the suppression hearing do not support the State’s position.

Reasonable mistaken beliefs about the law by police “can nonetheless give rise to the reasonable suspicion necessary to uphold...seizure under the Fourth Amendment.” *Heien v. North Carolina*, 574 U.S. 54, 57 (2014). This is because “[r]easonable suspicion arises from the combination of an officer’s understanding of the facts and his understanding of the relevant law.” *Id.* at 61. But the mistake must

be objectively reasonable. *Id.* at 66. “And the inquiry is not as forgiving as the one employed in the distinct context of deciding whether an officer is entitled to qualified immunity for a constitutional or statutory violation. Thus, an officer can gain no Fourth Amendment advantage through a sloppy study of the laws he is duty-bound to enforce.” *Id.* at 67. As our court of appeals has explained, “a court will only find an objectively reasonable mistake of law where ‘the statute the officer interpreted mistakenly “is genuinely ambiguous, such that overturning the officer’s judgment requires hard interpretive work.””” *State v. Huez*, 240 Ariz. 406, ¶ 15 (App. 2016) (quoting *State v. Stoll*, 239 Ariz. 292, ¶ 15 (App. 2016), quoting in turn *Heien*, 574 U.S. at 70 (Kagan, J., concurring)). “Reasonable suspicion can only be based on mistakes of law ‘when the law at issue is “so doubtful in construction” that a reasonable judge could agree with the officer’s view.’” *Id.* (quoting *Heien*, 574 U.S. at 70 (Kagan, J., concurring), quoting in turn *The Friendship*, 9 F.Cas. 825, 826 (C.C.D. Mass. 1812)). Thus, the mistaken interpretation must be of an ambiguous statute and susceptible to confusion among reasonable *jurists* considering the legal question—not reasonable *officers* in the field.

A.R.S. § 28-721(B) is an unambiguous statute. A driver is only required to be in the right-hand lane when driving “less than the normal speed of traffic.” The word “normal” does not render the statute vague and ambiguous. *State v. Delgado*, 232 Ariz. 182, ¶ 7 (App. 2013). The statute in no way seeks to regulate the conduct of a

person merely for being passed by a driver in the right lane—a point acknowledged by the dissenting judge below. *Alvarez-Soto*, 258 Ariz. 417, ¶ 33 (Gard, J., dissenting). Interpreting *Alvarez-Soto*'s conduct as violating this statute, therefore, is a patently unreasonable interpretation.

Moreover, the trooper testified that he received training on title 28 codes and traffic law. R.T. 1/11/19 ep 5. He also testified that he and DPS keep up with and are “pretty versed” in case law, and he even cited *Sweeney*. *Id.* ep 70. Given that he and his agency keep up with and are well-versed in case law related to traffic violations, he must have been aware of cases holding similar stops were unlawful. Opening Brief at 20-23 (discussing *United States v Martinez-Beltran*, 2019 WL 1170773 (D. Ariz. 2019), *United States v Plasencia*, 2015 WL 631277 (D. Ariz. 2015), and *United States v Nieblas-Cordova*, 2008 WL 4368934 (D. Ariz. 2008)). This conclusion is inescapable because all three cases involved DPS.

Moreover, the trooper continually reiterated that he is not interested in traffic enforcement, but instead he chooses to focus on drug interdiction. R.T. 1/11/19 ep 7, 10, 18, 38-39, 42, 64. Accordingly, he was never interested in enforcing traffic laws, but instead sought to investigate possible drug trafficking based on a mere hunch derived from nothing more than a recent registration in Nogales and an unspecified number of trips to Mexico. While *Whren* permits pretextual stops, the facts here show the trooper's belief that *Alvarez-Soto* violated § 28-721(B) was not

genuine. This demonstrates he did not actually make a mistake of law but instead sought to manipulate the law to serve his purpose. As shown in *Livingston* and *Sweeney* (in addition to the federal cases cited in Alvarez-Soto's Opening Brief), DPS troopers have pushed the boundaries of what constitutes a traffic violation in order to accomplish the true objective of conducting a suspicionless stop. While *Whren* and *Heien* eschew a subjective standard, there is nothing objectively reasonable about the State's reading of the statute that would allow for the stop here. Instead, it appears as a last-ditch effort to save the constitutionality of a stop that plainly violated § 28-721(B).

**C. The State's position, and that of the dissent below, would inject vagueness into traffic statutes by impermissibly permitting law enforcement to independently interpret those statutes in a manner allowing them to make traffic stops, thereby giving rise to numerous constitutional concerns.**

The void-for-vagueness doctrine generally requires that statutes define an offense sufficiently to discourage arbitrary and discriminatory enforcement. *Kolender v. Lawson*, 461 U.S. 352, 357 (1983) (collecting cases). As described by the Supreme Court:

Vague laws offend several important values...if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.

*Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) (internal quotes,

parentheses, and ellipses omitted).

Here, the primary reason the lower courts have had to address the questions discussed herein is precisely because both the trooper and the State claim the language of A.R.S. § 28-721(B) allowed the trooper to exercise discretion to consider the driving behavior of Alvarez-Soto to offend the statute. But their interpretation of the statute opens the door to arbitrary and discriminatory enforcement against which the vagueness doctrine guards.

First, the existence of the speed limit of 75 miles per hour raises a conundrum for any driver if the twisted interpretations of the State and the trooper are to be accepted. Specifically, if the flow of traffic is 75 miles per hour or greater, a driver in the middle lane would have to maintain exactly that speed—not a single mile per hour deviation more or less—to avoid a violation. A driver who exceeds 75 mph may be stopped for speeding—as the State argues in this case. But the driver who momentarily dips below 75 mph may be deemed to be driving at less than the flow of traffic under then-existing conditions if anyone is driving faster (and the driver cannot control the speed of other drivers), and thus may be stopped for violating A.R.S. § 28-721(B). This is without regard for whether a driver had the chance to pull to the right safely if the flow of traffic changed around him/her. So, a driver is condemned to the fate of a traffic stop no matter what, and would need to always drive in the right-most lane. Of course, if the driver then comes upon a car moving

more slowly, the driver could not pass without immediately reverting to the impossible circumstance of being deemed to commit a violation, except for keeping a precise speed of 75 miles per hour.

Notably, there was no testimony at the suppression hearing about whether Alvarez-Soto had sufficient opportunity to move the right lane. Instead, the testimony was disputed as to whether a car to her right was passing or being passed. R.T. 1/11/19 ep 62, 72, 83-85. But there was general agreement that the car was alongside her. No testimony indicated that the trooper observed her continuing to drive at a slower rate of speed, slower than the flow of traffic, *after the car passed her on the right*. Given these facts, it is unclear how Alvarez-Soto could have possibly avoided a traffic stop no matter what she did.

Second, the trooper himself conceded that he cannot force a violation by his own actions to effect a traffic stop. *Id.* ep 13. Yet, he also admitted that it is common for cars to slow down and avoid moving to the right lane when the drivers see police, and that he had pulled up to the back left of Alvarez-Soto. *Id.* ep 43-44, 56. Thus, he was aware that his own driving actions would likely cause Alvarez-Soto to slow down, thereby creating an opportunity for him to use the slowdown as an excuse to stop Alvarez-Soto. Police are not entitled to cause drivers to violate traffic laws.

Third, the trooper claimed Alvarez-Soto's newer-issue license plate along with recent trips to Mexico raised suspicion. Yet he also conceded that if there had

been anything else suspicious, such as the pattern of Alvarez-Soto's visits to Mexico and the amount of time she spent there matching a pattern indicating possible drug trafficking, he would have noted as such in his report, and no such notation was in his report in this case. *Id.* ep 50. Of substantial concern, the trooper's proposed rationale, if permitted by this Court, would allow police to target drivers based on racial considerations (especially Mexican/Hispanic drivers based on reasoning in this case, but also black and other minority drivers in general) because they can manufacture a traffic violation based on their interpretation of a statute to excuse the stop. This Court has previously expressed concerns about profiling arising from excess law enforcement discretion. *See Gonzalez-Gutierrez*, 187 Ariz. at 121 (“[M]any thousands of citizens and legal residents of Mexican ancestry reside in close proximity to Tucson. The only characteristic that might have set defendant apart from others—his Hispanic origin—is, standing alone, an improper reason to stop a motorist.”). The use of “Nogales profiling” is constitutionally impermissible.

The mere act of momentarily slowing slightly in the middle lane, without more, is simply not sufficient to justify a stop based on violation of the statute – to hold otherwise would be to inject such vagueness into the statute that a person could be stopped at any time even when engaged in completely lawful behavior, inviting the very malfeasance discussed above.

Finally, the injection of vagueness urged by the State would allow police to

get around prohibitions on drug interdiction checkpoints because of advancements in modern technology. The constitutionality of a checkpoint turns on whether the primary purpose of the checkpoint is proper, such as control of immigration or traffic safety, or is to interdict drug trafficking and other criminal wrongdoing. *See generally City of Indianapolis v. Edmond*, 531 U.S. 32 (2000); *Michigan Dep't of State Police v. Sitz*, 496 U.S. 444 (1990); *Delaware v. Prouse*, 440 U.S. 648 (1979). The Fourth Amendment does “not condone suspicionless vehicle checkpoints set up for the purpose of detecting illegal narcotics.” *Ashcroft v. al-Kidd*, 563 U.S. 731, 737 (2011). The Supreme Court has “never approved a checkpoint program whose primary purpose was to detect evidence of ordinary criminal wrongdoing.” *Edmond*, 531 U.S. at 41.

Here, the trooper detailed how he is able to sit in the median of the interstate, and his vehicle is equipped with a reader that scans every plate that passes him. R.T. 1/11/19 ep 11-12. The trooper’s focus is on drug interdiction – he testified he is not looking for speeders or traffic violators. *Id.* ep 38-39. Instead, he searches for things he finds suspicious based on the character of the driver and/or the car, what he sees from reading and searching the license plate and even the driver’s license of the registered owner. *Id.* ep 11-12, 20, 38-39, 44. This is the 21<sup>st</sup> century equivalent of a checkpoint – police are able to scan every license plate that passes, and choose which plates, based on any factor they desire, warrant a deeper dive by checking out vehicle

history, border crossings, and driver's license information. They can opt to target any particular car for an actual stop based on that information or any other reason, so long as they can claim a traffic violation, just like a roving patrol. It is not the plate-reading that works a Fourth Amendment violation – rather, it is the decision to conduct a traffic stop where no traffic violation exists based on the information from the reader where that information does not give rise to a basis to conduct a stop.

In consideration of the above, the State seeks to inject vagueness into traffic violation statutes, thereby allowing law enforcement substantial discretion to determine a traffic violation occurred even in the absence of reasonable suspicion. This is not a case in which there was a clear-cut traffic violation. Because of the impermissibly broad delegation of discretion transferred to police based on the determination of the trial court, the trial court erred by failing to suppress the evidence in this case, thereby abusing its discretion. The court of appeals corrected that error by properly interpreting the statute in a manner illustrating the unreasonable and unconstitutional conduct by the trooper. Accordingly, this Court should affirm the court of appeals' majority decision.

**II. Under the circumstances of this case, *Sweeney* recites the proper standard of review for video evidence.**

In *Sweeney*, Division One of the court of appeals conducted an independent review of video evidence, because when it comes to such evidence, “the trial court

is in no better position to evaluate the video than the appellate court.” 224 Ariz. 107, ¶ 12. Division Two reiterated this standard of review nine years later in *State v. Morris*, 246 Ariz. 154, n.2 (App. 2019), and again in this case.

*Sweeney* was correct. When it comes to video evidence, audio evidence, or undisputed documentary evidence, see *In re Lagunowicz*, 21 Ariz. App. 442, 443 (1974), the evidence generally speaks for itself. Where a trial court makes unreasonable determinations of fact and/or inferences therefrom based upon video evidence showing the events in an unvarnished fashion, deference is unnecessary. It works no injustice to ensure that trial courts are not overreaching in evaluating indisputable evidence, and it requires no relitigation of any issues. An appellate court is just as capable of evaluating such evidence as is the trial court, as there is no need to observe mannerisms to assess credibility as there would be with live witness testimony.

However, examination of the circumstances in this case indicates that the question presented is narrower. Specifically, in this case, the trial court made no findings of fact respecting the video (or any other aspect of the traffic stop) that are entitled to deference. Instead, the trial court merely found the stop was justified and the detention was not unreasonable, with no factual findings or explanation. R.T. 1/11/19 ep 96-97.

The lack of factual findings made by the trial court must further be considered

in the context of the parties' appellate court briefs. Alvarez-Soto made arguments respecting what was shown in the video. Opening Brief at 13. The State did the same. Answering Brief at 9, 13. Their positions respecting what was shown in the video differed, and there were no findings from the trial court to resolve this dispute. Given the lack of deference owed to non-existent factual findings, the court of appeals had no choice but to conduct an independent review of the video evidence to determine for itself what is shown. Thus, circumstantially, independent review was proper. Where a trial court fails to make factual findings, independent review would further have the effect of providing trial courts with incentive to avoid issuing decisions rife with vagueness failing to explain the decisions. Thus, contrary to the State's Petition for Review, precedent supporting de novo review of video evidence is not confusing – instead it holds trial courts accountable and encourages more detailed decision-making, which serves the truth-finding functions of the courts. *See State v. Fisher*, 176 Ariz. 69, 74 (1993) (noting that this Court “has a duty to ensure and protect the fairness and integrity of the judicial system,” and thus cannot permit the truth-seeking functions of the courts to be tainted).

Considering the above, *amicus* asks this Court to find that *Sweeney* correctly determined the standard of review for video, audio, and other indisputable documentary evidence. Alternatively, *amicus* asks the Court to limit any holding to the circumstances of this case – that is, where there is no specific factual

determination by a trial court and the parties are arguing about what is shown in video evidence, a reviewing court may undertake an independent review of that video evidence.

### **CONCLUSION**

AACJ requests this Court affirm the court of appeals decision suppressing the evidence. The State's position risks serious constitutional violations, and independent review of video evidence is appropriate.

RESPECTFULLY SUBMITTED June 10, 2025.

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