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September 25, 2025

Honorable Judges of the Superior Court of New Jersey
Appellate Division
Richard J. Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625

Re: State of New Jersey (Plaintiff-Appellant) v.
Nicholas Marrucca (Defendant-Respondent)
& Liam Clark (Defendant-Respondent)
Docket No. A-0099-25T1
Ocean County Ind. No. 24-08-1388-I

Criminal Action:
On Appeal from an Order Suppressing Evidence in the Superior
Court of New Jersey, Law Division, Ocean County

Sat Below: Hon. Guy P. Ryan, P.J.Cr.

Defendant Marrucca is confined.
Defendant Clark is not confined.

Honorable Judges:

Pursuant to R. 2:6-2(b) and R. 2:6-4(a), this letter in lieu of a formal
brief is submitted on behalf of the State of New Jersey.

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¹ A DVD containing the BWC video played for the trial court has been sent to the court via certified mail.

PROCEDURAL HISTORY²

On August 15, 2024, the defendants, Nicholas Marrucca and Liam Clark, were indicted under Ocean County Indictment number 24-08-1388. Counts One and Three charged the defendants with possession of a controlled dangerous substance (third degree). N.J.S.A. 2C:35-10a(1). Count Two charged the defendants with possession with intent to distribute a controlled dangerous substance (third degree). N.J.S.A. 2C:35-5(a)(1) and 2C:35-5b(5). Count Four charged the defendants with possession with intent to distribute a controlled dangerous substance (third degree). N.J.S.A. 2C:35-5(a)(1) and 2C:35-5b(3). Counts Five and Six charged the defendants with possession of a weapon for an unlawful purpose (2nd degree). N.J.S.A. 2C:39-4a. Counts Seven and Eight charged the defendants with unlawful possession of a weapon (2nd degree). N.J.S.A. 2C:39-5b(1). Counts Nine and Ten charged the defendants with possession of a weapon for an unlawful purpose (third degree). N.J.S.A. 2C:39-4d. Counts Eleven and Twelve charged the defendants with unlawful possession of a weapon (4th degree). N.J.S.A. 2C:39-4d. Counts Thirteen and Fourteen charged the defendants with possession of a firearm while engaged in certain drug activity (2nd degree). N.J.S.A. 2C:39-4.1a. Count

²‘Sa’ refers to the State’s appendix.

‘1T’ refers to the transcript of proceedings dated May 28, 2025.

‘2T’ refers to the transcript of proceedings dated July 23, 2025.

Fifteen charged the defendants with possession of hollow nose bullets (4th degree). N.J.S.A. 2C:39-3f. Count Sixteen charged the defendants with possession of a large capacity ammunition magazine (4th degree). N.J.S.A. 2C:39-3j. Count Seventeen charged defendant Liam Clark with possessing a false identifying document (4th degree). N.J.S.A. 2C:21-2.1d. Count Eighteen charged the defendants with receiving stolen property (3rd degree). N.J.S.A. 2C:20-7. Counts Nineteen and Twenty charged defendant Nicholas Marrucca with certain person not to possess a firearm. (2nd degree). N.J.S.A. 2C:39-7b(1). Counts twenty-one and twenty-two charged defendant Nicholas Marrucca with certain person not to possess a weapon (4th degree). N.J.S.A. 2C:12-3a. (Sa1-11)

On July 23, 2025, the Honorable Guy P. Ryan, P.J.Cr. granted the defendants' motion to suppress the evidence seized as a result of a search conducted under the automobile exception to the warrant requirement. (Sa12; 2T101-23 to 124-14)

On August 12, 2025, the State filed a timely motion for leave to appeal. (Sa13-14)

On September 4, 2025 the State's motion for leave to appeal was granted. (Sa15)

STATEMENT OF FACTS

On April 13, 2023, at approximately 6:30 p.m., Detective Derek Thomason of the Jackson Township Special Enforcement Unit received information from an anonymous concerned citizen about “suspicious activity” taking place in the area of 202 Owls Nest Court in Jackson Township. (2T33-25 to 34-4) The residents of that address, Monique Addonisio and Daniel Meadows were previously known as buyers of narcotics, but no other information was known regarding the “suspicious activity.” (2T35-13 to 36-8)

³ The information provided did not mention anyone by name, did not mention any vehicles, nor provide any other information. (2T88-6 to 88-16) There were no active investigations at that time involving those residents or that address. (2T82-8 to 82-24)

At approximately 6:45 p.m., Detectives Eric Fricks and Derek Thomason of the Jackson Police Special Enforcement Unit arrived at Owls Nest Court to conduct surveillance of the area surrounding the residence. (2T6-23 to 10-13)

At approximately 7:15 p.m., Detective Thomason observed a male suspect, who was identified as Daniel Meadows, a resident of 202 Owls Nest Court, walking towards Det. Fricks. (2T11-7 to 11-14; 2T37-17 to 37-19) Detective

³ The anonymous tip did not mention the address, but the officers knew this particular concerned citizen lived in that area, so they set up their surveillance around that address based on prior experience. There was a shoplifting investigation closer in time to these events but there had been no prior CDS investigations at that address that year. (2T91-1 to 92-24)

Fricks then observed Meadows walk towards Eucalyptus Court and stop in the parking lot area near a “Mister Softee” ice cream truck and two white sedans. (2T11-17 to 12-2) The ice cream truck had multiple individuals surrounding it and Meadows was observed engaging in conversation. Detective Fricks observed Meadows turn his attention to a black male suspect described as skinny with short dreadlocks, wearing a dark colored shirt, later identified as Kwalsky Narcisse, enter the passenger seat of the white sedan. The passenger door was open, and Detective Fricks observed Meadows engage in a hand-to-hand transaction with Narcisse, which he described specifically as an exchange of a small item. (2T12-7 to 13-9) ⁴

Meadows and Narcisse then said goodbye to each other and Meadows departed the area in the direction of 202 Owls Nest Court. As Meadows was walking, Detective Fricks observed Meadows clenching his hand inside of his pocket. After walking several steps Meadows removed his hand from his pocket and was holding what appeared to be a white bundle of wax folds suspected to be heroin. As Meadows continued to walk, Detective Fricks observed Meadows inspect the suspected bundle of heroin in his hand and

⁴ On March 4, 2024, Daniel Meadows pleaded guilty to Accusation 24-03-420 charging conspiracy to possession of a controlled dangerous substance with intent to distribute (3rd degree). On February 7, 2025, Meadows was sentenced to three years of probation. On June 7, 2024, Kwalsky Narcisse pleaded guilty to Accusation Number 24-06-999 charging certain person not to possess a handgun. At the time of this writing Narcisse is awaiting sentencing. Neither of these matters are the subject of the motion below nor on this appeal.

began “throwing [it] in the air like dice,” at which point Det. Fricks was able to more accurately identify the item as a bundle of wax folds of suspected heroin. (2T13-12 to 14-13)

After positively identifying the item in Meadows’s hand as suspected heroin, Detective Thomason attempted to make contact with Meadows. Upon Meadows acknowledging and identifying Detective Thomason, Meadows immediately attempted to hide the heroin in his left hand and began to walk backwards away from Detective Thomason. Detective Thomason told Meadows to stop and not move. Meadows did not comply and continued to try to flee, at which point Detective Thomason made physical contact with Meadows and attempted to effectuate an arrest. Meadows began to actively resist and tried to pull away from Detective Thomason. Detective Thomason conducted a take down on Meadows to gain control and radioed for backup. Detective Fricks arrived and assisted in gaining control of Meadows, and Detective Thomason was able to place Meadows in handcuffs without further incident. (2T14-19 to 15-4; 2T39-23 to 40-25)

After placing Meadows under arrest, Det. Fricks radioed marked patrol units to conduct a motor vehicle stop of both the white vehicles. Assistance was required in stopping the vehicles as well as needing more law enforcement officers on scene due to the number of occupants. Upon arrival of back up

Patrol Officers, the suspect vehicle along with a secondary vehicle of the same make and model was stopped as part of the investigation. The suspect vehicle was identified as a white Nissan Altima. Officer Fricks walked up to the vehicle after the stop and was able to identify the passenger as the same skinny black male with dreadlocks (Kwalsky Narcisse) who he observed engage in the hand-to-hand transaction with Meadows moments earlier. (2T15-7 to 16-21; 2T29-20 to 29-25)

The occupants of the suspect vehicle were identified as defendant Nicholas Marrucca in the driver's seat, Kwalsky Narcisse in the front passenger seat, and defendant Liam Clark in the rear passenger seat. The detectives were not familiar with any of the occupants prior to that day. (2T16-24 to 17-4; 2T44-14 to 44-17)

The occupants were removed from the vehicle. They were read their Miranda rights and chose not to speak with the officers. (2T43-9 to 43-17) As they were removing the passengers Officer Fricks observed a small backpack on the passenger side of the vehicle. As Marrucca was being removed from the vehicle he made a spontaneous utterance declaring that the backpack was not his. (2T17-13 to 17-20; 2T45-2 to 45-8) Narcisse was placed under arrest and a quantity of cash was found on his person which Det. Thomason believed, in his training and experience, could be the proceeds of drug transactions. (2T44-

21 to 44-25)

At 8:04 p.m., the detectives then determined that probable cause existed to conduct an automobile search of the passenger compartment of the vehicle. The search yielded a quantity of suspect heroin with matching stamps to the CDS that Meadows possessed, crack cocaine, two loaded handguns, digital scales, and two knives. (2T45-18 to 46-2; 2T70-12 to 70-25)

The detectives then proceeded to the other vehicle where they obtained consent to search. No evidence was found in that vehicle. (2T18-8 to 18-18; 2T46-7 to 46-15)

Judge Ryan found the detective's testimony to be credible. The basis of the stop was not challenged, nevertheless Judge Ryan held there was a reasonable, articulable suspicion justifying the stop. (2T4-1 to 4-7; 2T106-6 to 106-11) The court further found that the detectives had no time frame for being at the scene, and no advanced knowledge of any narcotics transactions that day. (2T114-7 to 114-10) The court also found there was "no doubt there was probable cause." (2T121-18 to 121-19) However, the court, in suppressing the evidence, citing State v. Smart, 253 N.J. 156 (2023), reasoned:

[O]nce Meadows was arrested, once the CDS in his hand was confirmed, I should say once the hand-to-hand package, once the object in his hand was confirmed to be CDS, once the officers articulated they had probable cause to believe that the suspect vehicle had distributed CDS, and once that probable

cause was further increased by the large quantity of cash found on Narcisse, who was the front seat passenger, the quote, "skinny black male", close quote, in the exact seat where Meadows had bought the CDS, it was foreseeable that the vehicle would contain CDS.

It wasn't unforeseeable at that point. It was directly foreseeable.

[2T120-23 to 121-9]

LEGAL ARGUMENT

POINT I

THE COURT ERRED IN FINDING THAT THE SEARCH OF THE VEHICLE WAS “FORESEEABLE” UNDER THE CIRCUMSTANCES, EFFECTIVELY ELIMINATING THE AUTOMOBILE EXCEPTION IN NEW JERSEY (Decision: 2T101-23 TO 124-4; Order: Sa12)

In the present matter, the court erred in applying its interpretation of the holding in State v. Smart. Despite acknowledging that probable cause was developing on the scene right up to the point of the arrest, and was not part of an ongoing investigation, the court nevertheless determined that it was “foreseeable” that CDS could have been found in the vehicle and therefore the detectives were required to obtain a warrant. This analysis effectively eliminates the automobile exception, is far beyond the scope of the New Jersey Supreme Court’s decision in Smart, and contrary to established law in New Jersey.

In this case, Detectives set up surveillance in the area of 202 Owls Nest Court in Jackson on a report of “suspicious activity.” The detectives had no active investigation and did not know what, if anything, would occur. While there they observed someone they knew to be previously involved in purchasing CDS, Daniel Meadows, engaged in a hand-to-hand transaction with an unknown suspect in an unknown vehicle. After visually identifying the item as CDS they arrested Meadows and then called for backup to stop two nearly identical vehicles. Not until Det. Fricks identified the passenger in one of the vehicles as the person who made the exchange, did they know that was suspect vehicle. Upon arresting the occupants, they were given more information by defendant Marrucca spontaneously disclaiming ownership of a backpack and obtaining a large quantity of cash from Narcisse. It was at that point that they immediately determined to search the vehicle. These events rapidly unfolded in less than an hour and the defendants were not the target of an ongoing investigation. The circumstances giving rise to probable cause were unforeseeable and spontaneous and in accordance with State v. Witt, 223 N.J. 409 (2015); State v. Smart, 253 N.J. 156 (2023) and its progeny. The court erred in finding the automobile exception did not apply.

Reasonableness is the touchstone of Fourth Amendment analysis. State v. Lamb, 218 N.J. 300, 321 (2014) A warrantless search of the interior of a

vehicle is permitted when the officer has probable cause of criminal activity that is unforeseeable and spontaneous at the time of the search. State v. Witt, 223 N.J. 409 (2015); See also State v. Smart, 253 N.J. at 171.

The Supreme Court of New Jersey first used the term “unforeseeable” in State v. Ercolano, 79 N.J. 25 (1979) which was derived from Chambers v. Maroney, 399 U.S. 42 (1970). In that case the Court suppressed evidence seized from a parked car because police had probable cause in advance and therefore the Court concluded that police could have secured a warrant long before the search of the car. In concluding the circumstances were not unforeseeable this Court wrote,

[T]he obtaining of a search warrant for this vehicle (assuming probable cause) was readily practicable. . . .
.; **Indeed, the police knew for more than a week** that defendant had been visiting Verlingo using the same automobile, and they certainly had probable cause to believe that he was implicated in the conspiracy. Thus, if there was also probable cause to believe that objects connected with the conspiracy were contained in that car, the police had that information all during the same extended period. Paraphrasing [Chambers v. Maroney] **“the circumstances” giving rise to probable cause to search this car were Not unforeseeable.** 399 U.S. at 50-51

[State v. Ercolano, 79 N.J. at 46–47 (emphasis added)]

This test was repeated in State v. Alston, 88 N.J. 211 (1981) explaining that the automobile exception to the warrant requirement is based upon the

inherent mobility of the vehicle and the unforeseeability and spontaneity of the circumstances giving rise to probable cause.

[O]nce the defendants were arrested on weapons charges, and given the probable cause to search the passenger compartment of the vehicle for further weapons, Chambers provides that it was equally permissible for the police either to conduct an immediate search at the place of the stop or to seize the vehicle and remove it to a police station before conducting the search. See *State v. Hannah*, 125 N.J.Super. 290, 295, 310 A.2d 512 (App.Div.1973).

Finally, defendants' argument and the Appellate Division's holding misconstrue the level of "exigent circumstances" that need be shown in order for the probable cause determination of the police to suffice as authorization for the search. According to Chambers, *supra*, the exigent circumstances that justify the **invocation of the automobile exception are the unforeseeability and spontaneity** of the circumstances giving rise to probable cause, 399 U.S. at 50-51, 90 S.Ct. at 1980-81, 26 L.Ed.2d at 428, and the inherent mobility of the automobile stopped on the highway.

[*State v. Alston*, 88 N.J. 211, 233 (1981)(emphasis added)]

In 1996 the Supreme Court of the United States rejected the argument that anything more was needed than probable cause in order to conduct a search under the automobile exception. "If a car is readily mobile and probable cause exists to believe it contains contraband, the Fourth Amendment thus permits police to search the vehicle without more." *Pennsylvania v. Labron*, 518 U.S. 938, 940 (1996)

Nevertheless, in State v. Cooke our Court later established an even more exacting standard requiring independent exigent circumstances in order to search an automobile without a warrant. “The automobile exception applies only in cases in which probable cause and exigent circumstances are evident, making it impracticable for the police to obtain a warrant.” State v. Cooke, 163 N.J. 657, 671 (2000), abrogated by State v. Witt, 223 N.J. 409 (2015) The exigent circumstances requirement was reaffirmed in State v. Pena-Flores, 198 N.J. 6 (2009), abrogated by State v. Witt, 223 N.J. 409 (2015).

However, the Court later returned to the Alston standard in State v. Witt, 223 N.J. 409 (2015) finding that the exigent circumstances requirement “is unsound in principle and unworkable in practice” but departed slightly from the Federal standard and held that the “unforeseeable and spontaneous” test should remain under the New Jersey Constitution. State v. Witt, 223 N.J. at 447.

Alston's requirement of “unforeseeability and spontaneity,” *id.* at 233, does not place an undue burden on law enforcement. For example, if a police officer has probable cause to search a car and is looking for that car, then it is reasonable to expect the officer to secure a warrant if it is practicable to do so. In this way, we eliminate the concern expressed in *Cooke, supra*—the fear that “a car parked in the home driveway of vacationing owners would be a fair target of a warrantless search if the police had probable cause to believe the vehicle contained drugs.” 163 N.J. at 667–68 In the case of the parked car, if the

circumstances giving rise to probable cause were foreseeable and not spontaneous, the warrant requirement applies.

[State v. Witt, 223 N.J. at 447–48]

The automobile exception to the warrant requirement does not disappear “merely because ‘the particular occupants of the vehicle may have been removed from the car, arrested, or otherwise restricted in their freedom of movement.[.]’” Witt 223 N.J. at 428 (quoting State v. Alston, 88 N.J. at 234)

The rationale of New Jersey’s more limited automobile exception include:

(1) the risk of the loss or destruction of evidence, see [State v. Alston, 88 N.J. 211, 234 (1981)] (in the time it takes for police to obtain a warrant, third persons could “move or damage [the car] or remove or destroy evidence contained in it”); (2) the “unacceptable risk of serious bodily injury and death” to officers, drivers, and passengers from “[p]rolonged encounters on the shoulder of a crowded highway,” [Witt, 223 N.J. at 441-42] (3) the risk that motorists may feel “compelled to consent” to warrantless searches of their vehicles, which “may be made on less than probable cause,” either to “avoid the dangers of protracted roadway stops” or “in the hope of escaping with only a warning” rather than a “traffic summons,” [id. at 442-44] (internal quotation omitted); (4) the recognition that, in certain circumstances, the privacy intrusion “occasioned by a prompt search based on probable cause is not necessarily greater than a prolonged detention of the vehicle and its occupants while the police secure a warrant,” [id. at 423] and (5) the undue burden and impracticability of requiring police to post “a special police detail to guard the immobilized automobile” while pursuing a warrant.

[State v. Fenimore, 261 N.J. 364, 375 (2025)]

In State v. Smart, our Supreme Court noted that the circumstances giving rise to probable cause cannot exist “well in advance” of the search. Smart, 253 N.J. at 174. The Court held “the question of whether the circumstances giving rise to probable cause were unforeseeable and spontaneous is a fact-sensitive inquiry that should be analyzed case by case.” State v. Smart, 253 N.J. at 173 The Court analyzing the facts of that case found:

Two months prior to the automobile stop, Sutter received a report from a concerned citizen that connected a particular residence -- and a vehicle like the GMC -- with drug deals. **One month later**, Taranto received the CI's information, which informed his reasonable suspicion that defendant had previously utilized the GMC for drug distribution. Taranto and Sutter surveilled defendant collectively for forty-seven minutes before the stop. Defendant's disappearing into the backyard of the residence, reemerging with another person, and then reentering the GMC shortly thereafter provided reasonable and articulable suspicion to stop the GMC. Taranto radioed Fitzgerald to conduct the stop, expecting to find drugs in the vehicle, and MacRae arrived at the stop and sought consent from the driver to immediately search the GMC. Having been denied consent and having found no contraband after Taranto patted defendant down, the police then called the canine unit to conduct a canine sniff of the GMC to establish probable cause to search the vehicle for drugs.

Those combined circumstances, which together gave rise to probable cause, can hardly be characterized as

unforeseeable. Although not one hundred percent certain, the officers reasonably anticipated and expected they would find drugs in the GMC.

* * *

Similarly, the circumstances giving rise to probable cause were anything but spontaneous; that is, they did not develop, for example, suddenly or rapidly. Rather, the circumstances unfolded over almost two hours while investigating **long-held information from a CI that defendant had utilized the GMC for drug trafficking**. The fact that the canine sniff is what culminated in probable cause does not eviscerate the steps that led to the sniff. The sniff did not exist in a vacuum, but rather served to confirm and provide evidentiary support for the investigators' suspicions. The canine sniff was just another step in a multi-step effort to gain access to the vehicle to search for the suspected drugs.

[State v. Smart, 253 N.J. at 172-173 (emphasis added)]

The facts in this case run far afield from those in Smart. The defendants in this case were not the target of an ongoing investigation for months in which the officers had information regarding the defendants or the vehicles before the encounter. On the contrary the events leading to probable cause occurred rapidly and unexpectedly. The court's own analysis demonstrates that probable cause was being developed continually at the scene, and not as part of an investigation. To repeat the trial court's holding from our statement of facts:

[O]nce Meadows was arrested, once the CDS in his hand was confirmed, I should say once the hand-to-

hand package, once the object in his hand was confirmed to be CDS, once the officers articulated they had probable cause to believe that the suspect vehicle had distributed CDS, and once that probable cause was further increased by the large quantity of cash found on Narcisse, who was the front seat passenger, the quote, "skinny black male", close quote, in the exact seat where Meadows had bought the CDS, it was foreseeable that the vehicle would contain CDS.

It wasn't unforeseeable at that point. It was directly foreseeable.

[2T120-23 to 121-9]

The trial court's analysis effectively eviscerates the unforeseeability prong of the automobile exception, because, according to the court, as soon as the officers obtained probable cause, on the scene, they were required to obtain a warrant for the vehicle. Such an analysis would hold true in every case in which probable cause was determined while on patrol. Indeed, probable cause was being developed up until the very moment of the search. The trial court's interpretation places an "undue burden" on law enforcement that the Court in Witt found unacceptable.

Detectives set up surveillance on a non-specific report of "suspicious activity." The detectives had no active investigation, and the events leading to probable cause unfolded at the scene. After observing a hand-to-hand transaction with an unknown party in an unknown vehicle, and confirming it involved CDS, the Detectives called for backup to conduct a stop of two

vehicles on the scene. At that point the officers obtained more information giving rise to probable cause to search the vehicle by identifying the passenger of one of the vehicles as the person involved in the exchange, obtaining cash from his person, and hearing defendant Marrucca's spontaneous statement regarding the backpack. It was at that point that the detectives searched the vehicle under the automobile exception. These circumstances giving rise to probable cause were certainly "unforeseeable and spontaneous."

CONCLUSION

For the aforementioned reasons, the court's order suppressing the evidence obtained from the automobile search should be reversed.

Respectfully submitted,

s/ William Kyle Meighan

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LETTER-BRIEF ON BEHALF OF DEFENDANT-RESPONDENT

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0099-25T1
INDICTMENT NO. 24-08-1388-I

STATE OF NEW JERSEY,	:	<u>CRIMINAL ACTION</u>
Plaintiff-Appellant,	:	On Appeal from a Judgment of
v.	:	Conviction of the Superior Court
NICHOLAS MARRUCCA	:	of New Jersey, Law Division,
Defendant-Respondent.	:	Ocean County.
	:	
	:	Sat Below:
	:	Hon. Guy P. Ryan, P.J.Cr.

DEFENDANT IS CONFINED

Your Honors:

This letter is submitted in lieu of a formal brief pursuant to R. 2:6-2(b).

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PRELIMINARY STATEMENT

The entire Jackson Township Special Enforcement Unit, which specializes in narcotics investigations, went to a home known for narcotics activity in response to a concerned citizen tip indicating that drug sales were once again occurring there. Shortly after setting up surveillance, police saw a resident of the home – a drug purchaser known to them from past narcotics investigations – leave the house, approach a car parked nearby, and appear to purchase drugs. After seeing the man holding drugs as he walked away from the car, police arrested him and confirmed he had drugs on his person. Police stopped the car and arrested all of its occupants, then proceeded to search the car without a warrant.

The motion court correctly concluded the car search did not satisfy the automobile exception to the warrant requirement because probable cause did not develop in a manner that was “unforeseeable and spontaneous.” Based on the tip and the fact the home was known for drug activity, police went to the home expecting to observe drug sales. Prior to stopping defendants’ car, this expectation was fulfilled when police saw a drug sale and arrested the buyer, confirming he had heroin on him. Because the State did not meet its burden to show the car search fell within the automobile exception to the warrant requirement, the motion court properly suppressed the evidence. This Court must affirm.

PROCEDURAL HISTORY

Defendant Nicholas Marrucca adopts the State's recitation of the procedural history of this matter. (Sb 1-2)¹

COUNTERSTATEMENT OF FACTS

At around 6:30 pm on April 13, 2023, Detective Derek Thomason of the Jackson Township Special Enforcement Unit received a text message on his department issued cell phone from a "concerned citizen" reporting "heavy foot traffic" in the area of 202 Owl's Nest Court. (2T:8-3 to 21; 83-5 to 84-7) The tip came from someone who lived in the area and had previously provided Thomason with tips relating to narcotics activity at 202 Owl's Nest. (2T:89-9 to 92-9) Thomason testified that the tip in this instance did not name the address; however, Thomason's partner Detective Eric Fricks, recalled that the tip did mention 202 Owl's Nest. (2T:8-9 to 17; 91-20 to 92-1) Thomason testified that, even without a specific address, he understood "202 [Owl's Nest] is where we needed to direct our attention" based on his knowledge of the area from prior investigations and past tips from the same concerned caller about the residence. (2T:91-20 to 92-1)

Both Thomason and Fricks knew the residents of 202 Owl's Nest, Daniel Meadow and Monique Addonsio, from prior narcotics investigations. (2T:21-13 to 22-1; 35-22 to 36-8; 86-6 to 10; 88-18 to 89-2) Fricks recalled having

¹ Sb: State's brief.

been present on-scene on prior occasions when Meadows had been arrested for possession of CDS in 2022 or 2023. (2T:25-3 to 24) Fricks knew Addonsio had previously been arrested for possessing and distributing drugs. (2T:26-10 to 27-3)

In response to the call, at approximately 6:45 pm, Thomason, Fricks, and their supervisor Detective Sergeant Steven Cilento all went to the area of 202 Owl's Court to "set up surveillance." (2T:19-7 to 20-9) Thomason, Fricks, and Cilento constituted the entirety of the Jackson Township Special Enforcement Unit, which "primarily focused on narcotics investigations and quality of life issues within Jackson Township." (2T:5-1 to 6-2; 32-3 to 13)

Thomason and Fricks parked "in strategic areas to conduct surveillance." (2T:36-9 to 12) Thomason positioned his car with a clear view of the entrance of 202 Owl's Nest. (2T:36-12 to 15) Fricks parked a couple hundred feet away "at the top of the road near Sixty Acres Boulevard." (2T:36-17 to 21) This coordinated positioning was meant to ensure that "in the event there's some kind of mobility of suspects, and/or vehicles, one detective will remain to keep an eye on movement and the other detective is positioned in an area where they may be able to pull out with their vehicle and conduct mobile surveillance." (2T:36-22 to 37-5)

Around 7 pm, Thomason saw Meadows and Addonisio speak briefly outside 202 Owl's Nest, before Meadows walked up the street toward the area

where Fricks car was parked, at which point Thomason lost sight of him.

(2T:11-12 to 14; 37-6 to 38-8) Fricks saw Meadows approach the area directly to the right of his car, where a Mister Softee ice cream truck and two white cars were parked with several people standing around. (2T:11-15 to 12-2)

Fricks saw Meadows speak to the men standing there, including a “skinny black male with short dreadlocks with a dark-colored shirt,” who got into the passenger seat of one of the white cars. (2T:12-6 to 15) Meadows hunched to lean into the car and appeared to “exchange a small item” with the skinny black man he had been speaking to. (2T:12-16 to 24) Fricks testified that, based on his training and experience, this exchange looked “typical of a hand-to-hand transaction” of narcotics. (2T:12-20 to 13-9)

Meadows left the men then walked back toward his home, passing Fricks car with his hand in his pocket, appearing to be “clenching a small item.” (2T:13-10 to 15) As Meadows crossed Sixty Acre Boulevard, Fricks saw him take the item from his pocket and “start[] throwing in the air like a dice,” allowing Fricks to “immediately identify that it was a bundle of wax folds of suspected heroin.” (2T:13-16 to 24) Fricks radioed to Thomason that Meadows was walking toward him with a bundle of heroin. (2T:14-8 to 13)

Acting on this information, Thomason approached Meadows to arrest him. (2T:39-14 to 40-25) Meadows attempted to flee, at which point Thomason

radioed for assistance from Fricks and Cilento. (2T:40-14 to 25) Fricks came to assist Thomason in arresting Meadows and saw that Meadows had tossed the suspected heroin on the ground. (2T:27-14 to 18; 40-14 to 5)

Once Meadows was arrested, Fricks radioed for “marked patrol units to stop both vehicles that were near the Mister Softee ice cream truck.” (2T:15-5 to 17) The car was stopped around 7:25 pm. (2T:27-10 to 13) Fricks went to the car with the black male who he had seen engage in the hand-to-hand transaction with Meadows. (2T:15-18 to 23) Officers removed the three occupants of the car, including defendant Nicholas Marruca, provided them their Miranda rights, and placed them under arrest. (2T:17-5 to 12) Fricks saw a backpack on the front passenger floorboard that Marrucca stated was not his as he was placed under arrest. (2T:17-13 to 20)

Without obtaining a warrant, officers then searched the car, discovering heroin, crack cocaine, and several weapons. (2T:17-23 to 18-1)

POINT I:

**THE DEVELOPMENT OF PROBABLE CAUSE
DURING SURVEILLANCE OF A HOME KNOWN
FOR NARCOTICS ACTIVITY IN RESPONSE TO
A TIP INDICATING NARCOTICS SALES WERE
TAKING PLACE AT THE TIME WAS NEITHER
UNFORESEEABLE NOR SPONTANEOUS**

In this case, all the officers in a unit specializing in narcotics investigations conducted coordinated surveillance of a home known for narcotics activity in response to a concerned citizen tip indicating that narcotics sales were taking place at the time. Unsurprisingly, shortly after setting up surveillance, the officers witnessed a hand-to-hand narcotics sale. The officers arrested the men they had seen engage in the transaction, as well as the other occupants of the car from which the drugs were sold. Officers then searched the car without a warrant. The motion court's straightforward application of our Supreme Court's decision in State v. Smart rightfully concluded that the automobile exception to the warrant requirement did not apply because the circumstances under which probable cause developed were not "unforeseeable and spontaneous." 253 N.J. 156, 171 (2023). This Court should affirm the well-reasoned order suppressing the evidence.

"The Fourth Amendment of the United States Constitution and Article I, Paragraph 7 of the New Jersey Constitution, in almost identical language, protect against unreasonable searches and seizures." State v. Nyema, 249 N.J. 509, 527

(2022). Under both, “searches and seizures conducted without warrants issued upon probable cause are presumptively unreasonable and therefore invalid.” State v. Goldsmith, 251 N.J. 384, 398 (2022). “[I]t is well known that our State Constitution ‘provides greater protection against unreasonable searches and seizures than the Fourth Amendment.’” State v. Smart, 253 N.J. 156, 165 (citing State v. Carter, 247 N.J. 488, 504 (2021) and listing cases holding that State Constitution provides greater protections than federal Fourth Amendment). The State bears the burden of establishing that a warrantless search fell under a recognized exception to the warrant requirement. Id. at 165.

“The automobile exception to the warrant requirement under the New Jersey Constitution is significantly more protective of motorists’ privacy interests than its federal counterpart.” State v. Fenimore, 261 N.J. 364, 374 (2025). Although the federal automobile exception allows for the warrantless search of a car based on probable cause alone, the New Jersey Constitution imposes the “extra requirement that the circumstances giving rise to probable cause be ‘unforeseeable and spontaneous.’” Ibid. (quoting Smart, 253 N.J. at 171).

Our Supreme Court’s decision in Smart held that, in circumstances resembling those in this case, police had not developed probable cause in a manner that was “unforeseeable and spontaneous.” 253 N.J. at 159. An officer specializing in narcotics investigations “commenced surveillance in front of a condominium

complex located in an area known to him as a place where frequent narcotics transactions and other criminal activity occurred.” Id. at 160. Once there, the officer saw defendant’s car, which resembled the description a confidential informant provided the officer with a month beforehand of a car involved in drug dealing. Ibid. The officer determined that the defendant matched the person described by the confidential informant as a drug dealer and learned from a database he had past arrests and convictions relating to narcotics sales. Id. at 161.

Police followed defendant’s car to another residence where multiple drug users lived. Ibid. Two months prior, a concerned citizen had reported seeing two men in a car resembling defendant’s car at that house, enter briefly, then depart, indicating “defendant had previously engaged in drug deals at the residence.” Ibid. Police saw defendant get out of his car, go to the back of the house, then return with an unknown woman, who entered the house. Ibid. Police pulled over defendant’s car, provided him with Miranda warnings, and requested his consent to search the car. Id. at 161-62. When defendant refused, police “called for a canine to perform an exterior sniff” of the car. Id. at 162. After the canine’s “positive drug “hit” established probable cause,” officers “immediately searched” the car, finding drugs and weapons inside. Ibid.

The Court explained that “the investigative stop was deliberate, orchestrated, and wholly connected with the reason for the subsequent seizure of the evidence.”

Id. at 172. Based on their surveillance, the officers were “expecting to find drugs in the vehicle” and immediately sought consent for a car search from the driver. Ibid. When the driver denied consent, police “called the canine unit to conduct a canine sniff . . . to establish probable cause to search the vehicle for drugs.” Ibid. The Court explained that the sequence of events “can hardly be characterized as unforeseeable” because “[a]lthough not one hundred percent certain, the officers reasonably anticipated and expected they would find drugs” in the car. Ibid. The Court noted that police had “had invested almost two hours investigating, surveilling, and utilizing five officers.” Ibid. The Court also explained that officers’ “decision to conduct a canine sniff to transform their expectations into probable cause to support a search” demonstrated that the discovery of drugs in the car was foreseeable. Id. at 173.

In addition to being foreseeable, the Court explained “the circumstances giving rise to probable cause were anything but spontaneous.” Ibid. Although police did not search the car immediately after stopping it, instead waiting to see whether the canine detected the presence of drugs, the Court explained that this final step could not be viewed “in a vacuum.” Id. at 173. The sniff “served to confirm and provide evidentiary support for the investigators’ suspicions,” which were based on “long-held information” about defendant provided by a confidential

informant. Ibid. Viewed together, the officers’ actions were a “multi-step effort to gain access to the vehicle to search for the suspected drugs.” Ibid.

In contrast, this Court’s decisions finding that probable cause arose in an unforeseeable and spontaneous manner involve circumstances where police conducted a routine traffic stop, after which they unexpectedly developed probable cause that the vehicle contained contraband or evidence of a criminal offense. State v. Baker, 478 N.J. Super. 116, 128-29 (App. Div. 2024); State v. Courtney, 478 N.J. Super. 81, 96 (App. Div.), leave to appeal denied, 257 N.J. 413 (2024); State v. Rodriguez, 459 N.J. Super. 13, 25 (2019). In Baker, police pulled the defendant over for motor vehicle infractions after observing his car “swerve several times out of the traffic lane and onto the shoulder of the roadway and then make an illegal U-turn.” 478 N.J. Super. at 122. While processing the defendant for an open traffic warrant, a police officer smelled burnt marijuana. Id. at 122-23. This Court held “that the finding of probable cause here, predicated on marijuana odor detected during a traffic stop, after a total of approximately eight minutes of interaction at defendant’s driver-side window, arose in unforeseeable and spontaneous circumstances.” Id. at 129.

In Courtney, defendants did not “dispute probable cause to search arose spontaneously and unforeseeably during the traffic stop.” 478 N.J. Super. at 96. An officer pulled over the defendant for motor vehicle infractions after he “crossed

over the solid, white line and” was “swerving within the right lane of travel.” 478 N.J. Super. at 88. Upon approaching the defendant’s car, the officer smelled alcohol and “saw a half-empty bottle of cognac on the passenger-side floor.” Id. at 88-89. He ordered the driver to exit the vehicle and administered sobriety tests, which the driver failed. Id. at 89. Because the police conducted a routine traffic stop, then developed probable cause that the vehicle contained an open container of alcohol, probable cause arose spontaneously and unforeseeably.

Finally, in Rodriguez, an officer pulled over a car with a broken headlight and air fresheners hanging from the rearview mirror. 459 N.J. Super. at 16. Only after the stop did the officer detect the odor of marijuana and develop probable cause that there was contraband in the car. Id. at 17. Therefore, the automobiles exception’s “unforeseeable and spontaneous” requirement was met. Id. at 25.

The stop in this case is unlike the routine traffic stops of Baker, Courtney, and Rodriguez, where police developed probable cause to believe a car contained contraband only after stopping it for a traffic violation. Instead, this case resembles Smart, where, after a period of surveillance, officers stopped a car with the expectation that it would contain contraband. Here, this expectation was based on a variety of sources, including: 1) information from past narcotics investigations into Meadows, who lived at the residence where the car was parked; 2) a concerned citizen tip from a caller that activity suggesting drug sales was currently occurring

there at the time; 3) surveillance of a hand-to-hand exchange between Meadows and an occupant of the car; and 4) the arrest of Meadows, who attempted to discard the heroin he had received from an occupant of the car. Demonstrating their confidence that the car contained drugs, police arrested all of its occupants immediately after the car stop, rather than waiting to develop further evidence of criminal activity during the course of the stop.

If anything, the circumstances in this case were even more foreseeable and less spontaneous than Smart. The officer in Smart was surveilling an area known for drug sales when he first saw defendant. But, prior to this observation, the officer did not have any information indicating that defendant would be found there at that time or that drug sales were currently taking place. The officer followed defendant, who drove to a second location that was also known for drug sales. The officer in Smart did not know he would encounter defendant's car that day or that defendant would drive to a house connected to narcotics activity.

In contrast here, the entire Jackson Police unit specializing in narcotics investigations went to a residence known for drug sales specifically in response to a tip suggesting that drug sales were taking place there at the time. The tip came from a concerned citizen who had previously provided the officers with information about the same address, resulting in prior investigations relating to narcotics sales at that home. (2T:92-2 to 23) Police positioned their cars

strategically outside the home to observe any drug sales and to apprehend those involved. (2T:36-9 to 37-5)

The State contends that there was no “active” investigation in 202 Owl’s Nest prior to the concerned caller tip. Nonetheless, the officers knew that both residents of 202 Owl’s Nest residence had previously been arrested and charged with narcotics offenses in the last few years. Even though the tip only stated that “heavy foot traffic” was taking place at the time, detectives drew on their knowledge of the home and its residents’ past narcotics activity when they prioritized the tip by sending the entire narcotics unit to “promptly respond[] to the area to conduct surveillance.” (2T:34-1 to 24) As in Smart, the police decision to devote substantial police resources to conducting surveillance was based on “long-held information” that the home was known for narcotics activity, undercutting the State’s claim of spontaneity. 253 N.J. at 172-73.

While police knew the residents of the home from past investigations, they did not know the individuals in defendants’ car. Nonetheless, the officers obviously foresaw that the car contained drugs prior to stopping it. The officers’ expectation that defendants’ car contained drugs was cemented by their observations during the course of the surveillance. Unlike in Smart, where defendant disappeared from the view of police after arriving at a home known for drug sales, id. at 172, in this case the officers actually saw an occupant of the car engage in a hand-to-hand

transaction with Meadows – a known drug user. After this transaction, the officers saw Meadows walk away from the car holding what they recognized as a bundle of heroin. Prior to stopping defendants’ car, police arrested Meadows and saw him attempt to discard the heroin. The confirmation that Meadows had received drugs from defendants’ car made it even more foreseeable to police that defendants’ car would contain contraband than in Smart, where officers did not observe a hand-to-hand exchange nor see someone linked to the car carrying contraband prior to the car stop. Given officers’ observation of the exchange of drugs between the car and Meadows, “the officers reasonably anticipated and expected they would find drugs” in the car prior to the stop. Ibid

Despite the fact that the officers stopped the car with the clear expectation that it contained drugs, the State’s brief argues the “unforeseeable and spontaneous” requirement is still satisfied because “probable cause was developing on the scene right up to the point of the search.” (Sb 8, 16) But this was also true in Smart. There, the State argued that the search was spontaneous because no time had passed “between the development of probable cause and the search,” which began immediately after the canine detected the presence of drugs. Id. at 173. The State therefore argued the automobile exception was met because police had not “‘sat’ on probable cause.” Id. at 173-74.

But the Court explained that, even though the officers “did not have probable cause to search the [car] well in advance of the warrantless search,” the test under the New Jersey Constitution “requires not just that probable cause not exist long in advance of the search, but that it ‘aris[e] from unforeseeable and spontaneous circumstances.’” Id. at 174 (emphasis in original) (quoting Witt, 223 N.J. at 450). Although the former condition was satisfied in Smart, the latter was not. Likewise here, probable cause did not “arise from unforeseeable and spontaneous circumstances” because it developed during surveillance undertaken with the expectation that police would observe drug sales. Defendants’ car was not stopped until that expectation was realized by police observation of a sale from the car and the arrest of the buyer who was carrying drugs on his person.

As it did in Smart, the State asks the Court to view the final step of its investigation in a vacuum. The State notes the car search did not begin until after Marrucca spontaneously stated the backpack in the car was not his. (Sb 17) But Marrucca did not make this statement until after he was arrested. At the time of that arrest, police already had probable cause to believe Marrucca and the other occupants of the car were selling drugs. That probable cause was based on police officers’ prior knowledge of Meadows, the concerned citizen tip, and the surveillance. Just as the fact that the car search in Smart immediately followed the positive dog sniff did not negate the sequence of steps taken by police that led to

that moment, Marrucca’s spontaneous utterance does not erase the coordinated police investigation that led to the car stop and his arrest.

The motion court correctly concluded that the development of probable cause was not “unforeseeable and spontaneous.” As in Smart, the stop of defendants’ car “was deliberate, orchestrated, and wholly connected with the reason for the subsequent seizure of the evidence.” 253 N.J. at 172. Therefore, “[u]nder the New Jersey Constitution” and New Jersey Supreme Court precedent, “a warrant was required in this case.” Id. at 174. Because police did not seek a warrant before searching the car, the evidence must be suppressed.

CONCLUSION

For all these reasons, this Court should affirm the motion court’s well-reasoned decision suppressing the evidence.

Respectfully submitted,
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Dated: October 30, 2025



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Honorable Judges of the
Superior Court of New Jersey
Appellate Division
Richard J. Hughes Justice Complex
Post Office Box 006
Trenton, New Jersey 08626

Re: State of New Jersey (Plaintiff-Appellant)
v. Liam Clark (Defendant-Respondent)
Appellate Division Docket No. AM-000641-24
Ocean County Ind. No. 24-08-1388-I
Criminal Action: On Motion for Leave to Appeal from an
Interlocutory Order in the Superior Court of
New Jersey, Law Division (Criminal), Ocean County

Sat Below: Honorable Guy P. Ryan, P.J.Cr.

Defendant Clark is not confined

Honorable Judges:

Please accept this letter memorandum, pursuant to R. 2:6-2(b), in lieu of a formal brief, submitted on behalf of Defendant-Respondent Liam Clark in opposition to the State of New Jersey's Interlocutory Appeal from an Order Suppressing Evidence.

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PROCEDURAL HISTORY

Defendants Nicholas Marrucca and Liam Clark were charged under Ocean County Indictment Number 24-08-1388-I. Counts One and Three charged the defendants with possession of a controlled dangerous substance (third degree). N.J.S.A. 2C:35-10a(1). Count Two charged the defendants with possession with intent to distribute a controlled dangerous substance (third degree). N.J.S.A. 2C:35-5(a)(1) and 2C:35-5b(5). Count Four charged the defendants with possession with intent to distribute a controlled dangerous substance (third degree). N.J.S.A. 2C:35-5(a)(1) and 2C:35-5b(3). Counts Five and Six charged the defendants with possession of a weapon for an unlawful purpose (2nd degree). N.J.S.A. 2C:39-4a. Counts Seven and Eight charged the defendants with unlawful possession of a weapon (2nd degree). N.J.S.A. 2C:39-5b(1). Counts Nine and Ten charged the defendants with possession of a weapon for an unlawful purpose (third degree). N.J.S.A. 2C:39-4d. Counts Eleven and Twelve charged the defendants with unlawful possession of a weapon (4th degree). N.J.S.A. 2C:39-4d. Counts Thirteen and Fourteen charged the defendants with possession of a firearm while engaged in certain drug activity (2nd degree). N.J.S.A. 2C:39-4.1a. Count Fifteen charged the defendants with possession of hollow nose bullets (4th degree).

N.J.S.A. 2C:39-3f. Count Sixteen charged the defendants with possession of a large capacity ammunition magazine (4th degree). N.J.S.A. 2C:39-3j. Count Seventeen charged defendant Liam Clark with possessing a false identifying document (4th degree). N.J.S.A. 2C:21-2.1d. Count Eighteen charged the defendants with receiving stolen property (3rd degree). N.J.S.A. 2C:20-7. Counts Nineteen and Twenty charged defendant Nicholas Marrucca with certain person not to possess a firearm. (2nd degree). N.J.S.A. 2C:39-7b(1). Counts twenty-one and twenty-two charged defendant Nicholas Marrucca with certain person not to possess a weapon (4th degree). N.J.S.A.2C:12-3a. (Da1-11)¹

The Honorable Guy P. Ryan, P.J.Cr. granted the defendants' motion to suppress evidence seized as the result of a warrantless automobile search. (Da12) (2T101-23 to 124-14)

On August 12, 2025, the State filed a timely motion for leave to appeal. (Da13-14)

On September 4, 2025 the State's motion for leave to appeal was granted. (Da15)

¹ Da refers to respondent Liam Clark's appendix.

"2T" refers to the transcript of proceedings dated July 23, 2025.

STATEMENT OF FACTS

On April 13, 2023 at around 6:20-6:30 p.m., Detective Derek Thomason of the Jackson Township Special Enforcement Unit received information from an anonymous concerned citizen about “suspicious activity”. (2T33-25 to 34-4) The concerned citizen contacted Detective Thomason with the tip by text on his department issued cell phone. (2T83-25 to 84-1) The concerned citizen had contacted Detective Thomason on prior occasions about suspicious activities at 202 Owls Nest Court in Jackson Township. (2T92-2 to 92-5) On April 13, 2023, the concerned citizen did not even have to specify the address. (2T 91-6 to 91-7) The detective understood the text to refer to 202 Owls Nest Court. (2T 91-20 to 92-1)

Detective Thomason received approval from his supervisor, Detective Sergeant Steven Cilanto, to investigate the tip. (2T 22-23 to 22-24) All members of the Special Enforcement Unit, Detective Sergeant Cilento, Detective Thomason, and Detective Eric Fricks, went to the area of 202 Owls Nest Court and set up surveillance. (2T34-14 to 34-15) This was around 6:45 p.m. on April 13, 2023.

At the suppression hearing, Detective Fricks testified that he was familiar with the 202 Owls Nest Court address from previous narcotics investigations. (2T9-8 to 9-10) Detective Fricks testified he learned about 202 Owls Nest Court from multiple investigations at that address in which he was involved. (2T24-7 to

24-15) He was also familiar with that address being the subject of narcotics investigations by other officers. (2T9-8 to 9-10-3)

Detective Fricks testified that he was familiar with the residents of 202 Owls Nest Court, Daniel Meadows and Monique Addonisio. (2T9-11 to 9-15) Detective Fricks testified that he was familiar with Daniel Meadows through previous narcotics investigations as well as by being on scene when Daniel Meadows was arrested before. (2T25-6 to 25-8) Detective Fricks described Daniel Meadows as a typical drug purchaser and user. (2T26-23 to 26-24) The detective was familiar with Monique Addonisio as both a user and distributor of drugs. (2T26-25 to 27-3)

Detective Fricks testified that each member of the Special Enforcement Unit set up a surveillance area in the vicinity of 202 Owls Nest Court. (2T9-24 to 10-1) At a certain point, Detective Fricks observed Daniel Meadows walk past where the detective was parked in an unmarked vehicle and headed toward a crowd near an ice cream truck. (2T11-17 to 12-2) The detective observed Meadows briefly converse with a skinny black male with short dreadlocks and a dark colored shirt. (2T12-7 to 12-10) Detective Fricks saw that male get into the passenger seat of one of two parked white cars. (2T12-11 to 12-12) While the car door was open, the detective observed Meadows reach his hand into the car and exchange a small item with the male. (2T12-16 to 12-19) The detective described this as a typical hand to hand transaction for narcotics. (2T12-23 to 13-2) The detective then observed

Daniel Meadows return towards 202 Owls Nest Court clenching a small item in his pocket. (2T13-12 to 13-15) Eventually, Meadows took the small item from his pocket and was manipulating the item in his fingers. (2T13-18 to 13-20) As Meadows got closer to where Detective Fricks was situated, he started throwing the item in the air like dice. (2T13-21) The detective testified he was then able to recognize that object as a bundle of wax folds suspected heroin. (2T13-22 to 13-24) Detective Fricks notified Detective Thomason that Daniel Meadows was walking towards Detective Thomason with a bundle of heroin in his hand. (2T14-9 to 14-13)

Detective Fricks left his position when Detective Thomason radioed him for assistance in arresting Daniel Meadows. (2T14-20 to 15-4) Once Meadows was under control and handcuffed, Detective Fricks called for patrol vehicles to stop the two vehicles that were near the ice cream truck. (2T15-7 to 15-10) The detective then went to the location of the two car stops and immediately identified the front passenger who had engaged in the hand-to-hand transaction with Daniel Meadows. (2T15-19 to 15-23) That passenger, Kwalsky Narcisse, along with the driver, Nicholas Marrucca, and backseat passenger, Liam Clark, were removed from the vehicle and placed under arrest. (2T16-24 to 17-12) Detective Fricks testified that Detective Thomason then arrived on scene. (2T17-8 to 17-9) The detective testified to seeing a backpack on the front passenger floorboard when

they were removing the car occupants. (2T17-15 to 17-17) He also testified that the driver, Nicholas Marrucca, made a spontaneous statement, while pointing to the backpack, that it did not belong to him. (2T17-17 to 17-20) The detective testified that law enforcement then conducted a search of the car, finding wax folds of heroin, suspected crack cocaine, folding knives, currency and two firearms. (2T17-22 to 18-1)

Detective Thomason testified at the suppression hearing. He testified that the Special Enforcement Unit is primarily dedicated to narcotics investigations. (2T32-10 to 32-13) The detective confirmed that the concerned citizen who provided the tip in this case was aware that Detective Thomason was a narcotics detective. (2T85-2) The concerned citizen had previously provided tips about 202 Owls Nest Court (2T92-2 to 92-5) and had Detective Thomason's direct work cell phone number. (2T83-5 to 83-11)

Detective Thomason testified that he and the two other detectives arrived at the area of 202 Owls Nest Court around 6:45 p.m. (2T82-5) He testified that he was familiar with that address because it was the subject of previous narcotics investigations involving the two individuals who resided there, Daniel Meadows and the now deceased Monique Addonizio. (2T91-20 to 92-1) The detective acknowledged that the purpose of setting up this kind of surveillance is to watch

for interactions between suspects and third parties who might be on foot or in a car.
(2T86-11 to 86-24)

The detective observed Daniel Meadows exit 202 Owls Nest Court around 7:15 or 7:20 p.m. (2T37-19) Meadows walked from the house and Detective Thomason lost sight of him. (2T37-23 to 37-25) A while later, Detective Fricks notified Detective Thomason that he had observed Meadows engaged in a suspected drug transaction. (2T38-13 to 38-21) Detective Thomason regained visual of Meadows as he was returning towards his house and saw Meadows holding suspected heroin in his hands. (2T38-3 to 38-8) The decision was then made for Detective Thomason to arrest Meadows. (2T39-15 to 39-21) Meadows attempted to conceal the suspected heroin and flee. (2T40-2 to 40-5) After subduing Meadows, the detective handcuffed him and collected the heroin which had scattered to the ground. (2T40-20 to 40-25) Detective Thomason awaited the arrival of a uniformed officer to transport Daniel Meadows (2T41-10 to 41-12) while Detective Sergeant Cilento and Detective Fricks proceeded back to the location of the motor vehicle where the suspected drug deal had taken place.
(2T41-1 to 41-5)

The detective testified that he joined the other detectives at the motor vehicle stop after a patrol officer took custody of Daniel Meadows and the evidence.
(2T41-14 to 41-19) Detective Thomason arrested the suspected drug dealer,

Kwalsky Narcisse, at approximately 1952 hours. (2T59-10 to 59-15) Narcisse had a couple hundred dollars in his wallet and crumpled up in his pocket. (2T90-12 to 90-18) The detectives decided to conduct a roadside search of the vehicle at 2004 hours. (2T70-12 to 70-21) Wax folds of heroin, suspected crack cocaine, folding knives, currency and two firearms were found during the car search. (2T17-22 to 18-1)

LEGAL ARGUMENT

POINT I

THE TRIAL COURT PROPERLY RULED THAT THE CIRCUMSTANCES GIVING RISE TO PROBABLE CAUSE FOR THE AUTOMOBILE SEARCH WERE FORESEEABLE, AND THE STATE'S EXAGGERATED CLAIM THAT THE RULING EFFECTIVELY ELIMINATES THE AUTOMOBILE EXCEPTION IN NEW JERSEY SHOULD BE REJECTED.

Both the Fourth Amendment of the United States Constitution and Article I, Paragraph 7 of the New Jersey State Constitution protect "against unreasonable searches and seizures" and prohibit the issuance of warrants in the absence of probable cause. U.S. const. amend. IV; N.J. Const. art. I,

¶ 7. An exception to the warrant requirement is the automobile exception. That exception "authorizes a police officer to conduct a warrantless search of a motor vehicle if it is 'readily mobile' and the officer has 'probable cause' to believe that the vehicle contains contraband or evidence of an offense." State v. Witt, 223 N.J. 409, 422 (2015) (quoting Pennsylvania v. Labron, 518 U.S. 938, 940 (1996)). In addition, the New Jersey Supreme Court held in Witt that the circumstances giving rise to probable cause must be unforeseeable and spontaneous, thereby restoring the standard originally established in State v. Alston, 88 N.J. 211 (1981). Witt, 223 at 450.

In the case at bar, the State has argued that no warrant was required to search the car because the circumstances here met the automobile exception to the warrant requirement. The State contends that the Alston test was met because the circumstances giving rise to probable cause were unforeseeable and spontaneous.

An analysis of the facts in the case at bar shows the circumstances giving rise to probable cause for the car search were foreseeable and not spontaneous.

This investigation was initiated by a tip about suspicious activity from a concerned citizen to Detective Thomason of the Jackson Police Department. (2T33-25 to 34-4) While the concerned citizen did not specify the nature of the suspicious activities, the citizen was aware that Detective Thomason was a narcotics detective. (2T85-22 to 85-24). This citizen had contacted Detective

Thomason on previous occasions about suspicious activities at 202 Owls Nest Court, so much so that on this occasion, the concerned citizen did not even have to specify the address, and the detective understood the tip referred to 202 Owls Nest Court. (2T89-11 to 89-15). The concerned citizen did not call the tip into the main phone number for police headquarters. The citizen actually had the detective's work cell phone number and texted the tip to that number. (2T83-5 to 83-11)

The detective and his supervisor found the tip sufficiently reliable for the supervisor to approve setting up surveillance near 202 Owls Nest Court by all members of the Special Enforcement Unit (2T22-19 to 22-24) within 15-25 minutes after receiving the tip. (2T20-12 to 20-13) The members of that Unit were Detective Sergeant Cilento, Detective Thomason, and Detective Eric Fricks. (2T18-23 to 19-10)

The detectives were familiar with the 202 Owls Nest Court address from multiple previous narcotics investigations. (2T24-2 to 24-15) Both Detective Thomason and Detective Fricks testified that the two individuals who were living there at the time, Daniel Meadows and the now deceased Monique Addonisio, were involved in those previous narcotics investigations. (2T26-10 to 26-19) Detective Fricks was on scene when Daniel Meadows had been arrested before. (2T25-3 to 25-8) Detective Fricks described Daniel Meadows as a typical drug

purchaser and user. (2T26-23 to 26-24) The detective described Monique Addonisio as a user and distributor of narcotics. (2T26-20 to 27-3)

Detective Thomason observed Daniel Meadows exit 202 Owls Nest Court and walk from the house. Detective Fricks was able to observe Meadows walk toward a crowd near an ice cream truck. (2T11-17 to 12-2) Detective Fricks saw Daniel Meadows converse with the individual later identified as Kwalsky Narcisse. (2T12-7 to 12-11) The detective observed Kwalsky Narcisse enter the passenger seat of a white Nissan, and while the car door was open, Daniel Meadows approached and engaged in a hand-to-hand transaction with Narcisse, exchanging a small item. (2T12-16 to 12-23) Detective Fricks recognized this as a narcotics type transaction. (2T12-25 to 13-6). The detective observed Daniel Meadows walk back in the direction of his surveillance location. (2T13-12 to 13-15) The detective saw Meadows removing the small item from his pocket and throwing it into the air, at which point Detective Fricks was able to recognize the object as a bundle of wax folds suspected heroin. (2T13-18 to 13-24)

Once Detective Fricks notified Detective Thomason that he observed Daniel Meadow engage in a suspected drug transaction, Detective Thomason attempted to arrest Daniel Meadows. (2T38-13 to 39-21) Meadows attempted to flee but was eventually subdued by Detective Thomason with the assistance of Detective Fricks. (2T40-16 to 40-25) Detective Thomason was then able to collect the

suspected heroin that had scattered to the ground during the struggle. (2T40-20 to 40-25) Detective Fricks then called for patrol cars to stop the car where the drug transaction had occurred. (2T41-1 to 41-5) Detective Fricks went to the scene of the car stop and identified Kwalsky Narcisse as the person who sold Meadows the drugs. (2T15-19 to 15-23) Kwalsky Narcisse, the driver Nicholas Marrucca, and backseat passenger Liam Clark were all removed from the car and arrested.

(2T16-24 to 17-12) Nicholas Marrucca blurted out that a backpack in the car was not his. (2T17-15 to 17-20) Detective Thomason found several hundred dollars on Kwalsky Narcisse when he conducted a search incident to arrest. (2T90-11 to 90-24) At that point, the detectives decided to conduct a search of the car. (2T45-9 to 45-16)

In its analysis of whether the automobile exception to the warrant requirement applied, the trial court found the most critical point occurred from when the detectives arrested Daniel Meadows to when they searched the vehicle. When the detectives arrested Daniel Meadows and found the heroin he was holding, this confirmed their suspicion that drugs were being sold out of the suspect car, and they had probable cause to search the car. The trial court determined that “the spontaneity and unforeseeability ended at the latest when Meadows was arrested, found in possession of these wax folds, the hand-to-hand

was confirmed, and the officer articulated credibly that he believed the white Nissan had distributed heroin.” (2T123-6 to 123-12).

The probable cause was developed further when a large sum of cash was discovered on Kwalsky Narcisse during his arrest. The trial court determined that probable cause existed at that point to search the vehicle. Importantly, the trial court observed, “However, probable cause is not an exception to the warrant requirement. It’s a basis to obtain a warrant”. (2T120-14 to 120-16)

Under these circumstances, the trial court correctly concluded that law enforcement was required to obtain a court-authorized warrant to search the car. The trial court properly suppressed the evidence obtained during the search of the automobile.

The State’s exaggerated claim that this ruling effectively eliminates the automobile exception should be rejected. The State argues the trial court’s analysis would hold true in every case in which probable cause is determined while on patrol and would place the undue burden on law enforcement that Witt found unacceptable when the New Jersey Supreme Court abandoned the exigent circumstances requirement for a warrantless automobile search previously established in State v. Cooke, 163 N.J. 657 (2000) and State v. Pena-Flores, 198 N.J. 6 (2009). The State fails to consider the context of how probable cause developed in the case at bar. The facts here are distinguishable from the routine

case where law enforcement pulls over a driver for a traffic infraction and probable cause develops to suspect evidence of a crime that is unforeseeable and spontaneous.

The facts in Alston are an example of where probable cause arises unforeseeably and spontaneously during a routine traffic stop. In Alston, police pulled over a driver for speeding. Alston, 88 at 216. When the driver opened the glove compartment looking for credentials, the police officer shined his flashlight into the glove compartment and saw shotgun shells. Id. The officer removed the car occupants, went to the glove compartment to retrieve the shells, noticed a long thin item in an opaque bag, felt it and noticed it felt like a gun, and removed the gun. Alston at 217. Under these circumstances, the New Jersey Supreme Court sustained the warrantless vehicle search, concluding that the “the defendants’ speeding vehicle was stopped on the highway for reasons wholly unconnected with the reason for the subsequent seizure”. Alston at 234.

The facts in Witt were that police stopped a car for a high beam traffic violation, the driver failed a field sobriety test, police searched the car for liquor and found a gun. Witt, 223 at 416. While the New Jersey Supreme Court sustained the exclusion of the gun under the “exigent circumstances” standard pursuant to Pena-Flores, it did so because it was applying the Alston standard

prospectively. Witt at 449. The Court acknowledged that a different outcome may have resulted under the Alston standard. Witt at 450.

In State v. Baker, 478 N.J. Super. 116 (2024), the Appellate Division found spontaneous and unforeseeable circumstances where defendant was pulled over for a routine stop after a police officer observed defendant make an illegal u-turn and swerve in and out of lanes. Baker, 478 at 122. During the stop, the police officer detected the smell of marijuana (prior to the legalization of marijuana). Baker at 124. Based on that, he conducted a warrantless search and found a large sum of money and various types of controlled dangerous substances and baggies used for their distribution. Id. The Appellate Division upheld the search, explaining “[w]e are satisfied that the finding of probable cause here, predicated on marijuana odor detected during a traffic stop, after a total of approximately eight minutes of interaction at defendant's driver-side window, arose in unforeseeable and spontaneous circumstances”. Baker at 129.

The trial court correctly distinguished the case at bar from routine traffic stops that end in warrantless vehicle searches when probable cause develops spontaneously and unforeseeably.

The State in essence argues that a warrant is only required in factual settings identical to those in State v. Smart, 253 N.J. 156 (2023). There, police set up surveillance a month after receiving information from a confidential informant

identifying a person and a vehicle involved in drug transactions. Smart, 253 at 159. A month before that, police had received information from a concerned citizen about that vehicle and a residence being involved in drug transactions. Id. Police followed the target to the residence that was the subject of the 2 month-old complaint. Id. Police observed suspicious activity and called for the vehicle to be stopped and sniffed by a canine unit. Id. The New Jersey Supreme Court determined that the circumstances giving rise to probable cause were not spontaneous or unforeseeable, finding that “the circumstances unfolded over almost two hours while investigating long-held information from a CI that defendant had utilized the GMC for drug trafficking” and therefore police should have applied for a search warrant of the vehicle. Smart at 173.

Attempting to distinguish the case at bar from Smart, the State argues the defendants here were not the target of an ongoing investigation for months in which the officers had information regarding the defendants or the vehicles before the encounter, and so the circumstances giving rise to probable cause were unforeseeable and spontaneous. That argument ignores the fact-sensitive nature in the determination of “unforeseeable and spontaneous” circumstances. Smart at 173. The trial court aptly noted on the one end of the spectrum are cases where the circumstances giving rise to probable cause are clearly unforeseeable and

spontaneous while on the other end, the circumstances are foreseeable and not spontaneous.

So somewhere in between a motor vehicle stop by a uniformed police officer in a marked patrol car with no prior advance notice, just randomly sees, say, a driver commit a motor vehicle violation, pulls him over, during the course of investigating or issuing a summons for the motor vehicle violation, discovers probable cause that the vehicle contains evidence of criminality, that would be clear spontaneous and unforeseeable. On the other end of the spectrum would be the Smart case where Justice Fasciale, in his opinion, described that as a month-long orchestrated, deliberate investigation targeting the defendant Smart. So this is somewhere in between.

(2T111-4 to 111-16)

The case at bar involved an investigation based on a tip to a police unit specializing in narcotics investigation. Police were familiar with the target property from prior narcotic investigations and arrests. Detectives recognized Daniel Meadows, a resident of the property, who was a known drug addict, exit the property. A detective watched Meadows meet with an individual in a white Nissan where the detective observed Meadows engage in a narcotic-type transaction. The detective was able to identify wax folds of suspected drugs in Meadows's hand. Police arrested Meadows and found the wax folds, confirming the suspicion that Meadows purchased narcotics from an individual in the white Nissan. Based on those observations, it was foreseeable that evidence of illegal drug dealing would be located inside the Nissan. This was not a spontaneous set of events, but rather

the culmination of an investigation that started with a tip by a concerned citizen. Given the context of events prior to the stop of the white Nissan, the trial court correctly determined that a warrant was required, and properly suppressed the evidence obtained from the white Nissan during the warrantless search.

CONCLUSION

For the aforementioned reasons, the trial court's order suppressing the evidence obtained during the automobile search should be affirmed.

Respectfully submitted,

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November 6, 2025

Honorable Judges of the Superior Court of New Jersey
Appellate Division
Richard J. Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625

Re: State of New Jersey (Plaintiff-Appellant) v.
Nicholas Marrucca (Defendant-Respondent)
& Liam Clark (Defendant-Respondent)
Docket No. A-0099-25T1
Ocean County Ind. No. 24-08-1388-I

Criminal Action:
On Appeal from an Order Suppressing Evidence in the Superior
Court of New Jersey, Law Division, Ocean County

Sat Below: Hon. Guy P. Ryan, P.J.Cr.

Defendant Marrucca is confined.
Defendant Clark is not confined.

Honorable Judges:

Pursuant to R. 2:6-2(b) and R. 2:6-4(a), this letter in lieu of a formal
brief is submitted on behalf of the State of New Jersey.

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¹ A DVD containing the BWC video played for the trial court has been sent to the court via certified mail.

PROCEDURAL HISTORY²

The State relies on the procedural history contained in its merits brief filed on September 25, 2025.

STATEMENT OF FACTS

The State relies on the statement of facts contained in its merits brief filed on September 25, 2025.

LEGAL ARGUMENT

POINT I

THE CIRCUMSTANCES WHICH LED TO PROBABLE CAUSE WERE SPONTANEOUS AND UNFORESEEABLE AND DEVELOPED AT THE SCENE. NEITHER OF THE DEFENDANTS, THE VEHICLE, NOR THE REASON FOR SURVEILLANCE WERE KNOWN PRIOR TO THE DECISION TO SEARCH THE VEHICLE

(Decision: 2T101-23 TO 124-4; Order: Sa12)

The defendants argue that the circumstances were neither unforeseeable nor spontaneous because the unit “specializing in narcotics investigations” responded to a tip that narcotics sales were taking place at the time, and that the surveillance was undertaken “with the expectation that police would

²‘Sa’ refers to the State’s appendix.

‘Sb’ refers to the State’s initial merits brief on this appeal.

‘DMrb’ refers to the response brief filed for Defendant Marucca

‘DCrb’ refers to the response brief filed for Defendant Clark

‘1T’ refers to the transcript of proceedings dated May 28, 2025.

‘2T’ refers to the transcript of proceedings dated July 23, 2025.

observe drug sales.” (DMrb6, DMrb15, DCrb17) Primarily, these factual assertions are contrary to the evidence elicited at the hearing and to Judge Ryan’s factual findings.

The “unit” from Jackson Police Department who responded to the text message from a concerned citizen was the “Special Enforcement Unit.” This unit consisted of only three people, two of whom testified at the hearing. Detective Eric Fricks, Derek Thomason, and their supervisor Detective Sergeant Steven Cilento. (2T5-15 to 5-20; 2T7-7 to 7-25)³ The officers testified that the unit is “primarily focused on narcotics investigations **and quality of life issues** within Jackson Township.” (2T32-9 to 32-13) The unit also investigates other crimes “such as aggravated assaults, burglaries, things of that nature.” (2T5-25 to 6-2) As “plainclothes detectives [they] assist in several investigations due to [their] surveillance capabilities, whether that be burglaries, shopliftings, thefts, anything that [they] may be utilized to assist in a covert capacity.” (2T87-22 to 88-1) They are not a “Narcotics Unit by title.” (2T88-2 to 88-5)

The anonymous tip only referenced “suspicious activity” and as is typical they responded to the scene to “determine or ascertain what exactly is

³ Both defendants stress that the “entire narcotics unit” was sent to respond. As noted the “entire” unit is simply the two officers and their supervisor.

taking place.” (2T34-9 to 34-10) The officers were looking for “evidence of any kind of crime” not just narcotics. (2T22-2 to 22-5; 2T26-4 to 26-9)

Further there were no open investigations in that area at the time either for the location or for persons. (2T23-15 to 23-21; 2T82-8 to 82-15) The concerned citizen did not mention narcotics. (2T85-19 to 85-21) While the officer’s decided to focus on 202 Owl Court the tip did not specifically name that address. (2T89-9 to 89-15)

Most importantly, the tip did not mention any vehicle, any name, or any other information beyond there being “suspicious activity.” (2T88-6 to 88-16) While the officers were aware of the residents of 202 Owl’s Nest Court having been involved in drug purchases in the past, they were completely unaware of either of the defendants or vehicles involved in the matter at bar. (2T91-6 to 91-14) Indeed nothing had occurred in that area for several months and that involved a shoplifting investigation. (2T82-18 84-24)

With regard to the tip and the investigation, the trial court did find that the circumstances which gave rise to probable cause were both spontaneous and unforeseeable.

I find the State’s established that the officer’s response from headquarters was spontaneous, even though it’s the result of a tip. And the tip is so vague, even though it’s by a concerned citizen, it’s either, quote, “suspicious activity or heavy traffic”, which

could mean a lot of things. So at that point it was unforeseeable what was to occur.
[2T119-12 to 119-19]

As argued in our initial brief, the State submits that where the court erred was in finding that at the moment the officers observed the purchase of CDS and arrested Daniel Meadows for possession of CDS that the circumstances suddenly became “foreseeable” thereby taking the search out of the automobile exception. That analysis runs afoul of State v. Witt, 223 N.J. 409 (2015) and State v. Smart, 253 N.J. 156 (2023). (Sb15-16)

It is important that not only did the tip not mention any names, but even though the officers had prior knowledge of prior CDS activity long ago from Daniel Meadows, neither Daniel Meadows nor 202 Owl’s Court were searched or the subject of this appeal. As argued in our initial brief, the circumstances rapidly unfolded at the scene and all were unforeseeable and spontaneous. These officers at no prior time had any knowledge that these defendants were engaged in any criminal activity which they observed at the scene.

The defendants’ argument, taken further than the trial court’s decision, is that without specificity, the officers’ general knowledge of prior CDS activity in the area without any specific prior knowledge of these defendants or that this particular vehicle may contain CDS renders the circumstances “foreseeable.” However, this would render every search of a vehicle in a “high

crime area” foreseeable no matter the circumstances, and this is in stark contrast to the Supreme Court’s decision in Smart, where the specific defendant and his vehicle were the target of a months-long investigation of that specific defendant. It was those circumstances which the Supreme Court deemed not to be “unforeseeable.” State v. Smart, 253 N.J. at 172-173.

The defendants’ response briefs seem to indicate that the automobile exception only applies when probable cause arises after a “routine traffic stop” for a motor vehicle offense. (DMrb10-11;DCrb14-15) However, no prior case law has limited the automobile exception to only “routine traffic stops.” Indeed, this court has rejected that contention:

We are not convinced Witt's holding is limited to probable cause that arises after a roadside stop based on a motor vehicle violation, as the motion judge seemingly suggested here. The circumstances giving rise to probable cause may be unforeseeable and spontaneous following an investigatory stop – **even if police expect to find contraband in the vehicle**. We discern no constitutionally significant distinction between law enforcement's observations of criminal activity after a car is stopped for a motor vehicle violation and those same observations following an investigatory stop.

[State v. Smart, 473 N.J. Super. 87, 97–98 (App. Div. 2022), aff'd, 253 N.J. 156 (2023)(emphasis added)]

In this case, the officers were simply conducting surveillance based on a vague tip. The circumstances which led to probable cause occurred rapidly and

unexpectedly. The trial court was mistaken in finding that the automobile exception did not apply.

CONCLUSION

For the aforementioned reasons, the court's order suppressing the evidence obtained from the automobile search should be reversed.

Respectfully submitted,

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Submitted: November 6, 2025