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On The Letter-Brief
February 5, 2025

LETTER IN LIEU OF BRIEF ON BEHALF OF THE STATE OF NEW JERSEY

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

Re: State of New Jersey (Plaintiff-Appellant) v.
Rahmel Belle, (Defendant-Respondent)
Ind. No.: 23-02-0225-I
State's Letter-Brief
Superior Court of New Jersey
Law Division, Hudson County
Sat Below: Hon. David J. Labib, J.S.C.

Honorable Judges:

Pursuant to R. 2:6-2(b) and R. 2:8-1(a), this letter in lieu of formal brief and appendix is submitted on behalf of the State.

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* Pursuant to Rule 2:6-1(a)(2), a party may include a brief in the appendix when "the brief is referred to in the decision of the court." The Union County briefs, (Pa8-36), as well as portions of the Hudson County briefs, (Pa57-62), are included in the appendix in accordance with Rule 2:6-1(a)(2). (See Pa1).

PROCEDURAL HISTORY

On February 28, 2023, a Hudson County grand jury returned Indictment 23-02-0225, charging defendant Rahmel Belle ("defendant") with (1) first-degree armed robbery, N.J.S.A. 2C:15-1(a)(2) (Count One); (2) first-degree conspiracy to commit armed robbery, N.J.S.A. 2C:5-2(a)(1)/2C:15-1(a)(2) (Count Two); (3) second-degree unlawful possession of a handgun without a permit, N.J.S.A. 2C:39-5(b)(1) (Count Three); and second-degree possession of a firearm with an unlawful purpose, N.J.S.A. 2C:39-4(a)(1). (Pa5-6).[1]

In August 2022, a Union County grand jury returned Indictment 22-08-0102, charging defendant with first-degree carjacking, N.J.S.A. 2C:15-2(a), and related offenses. (Pa39; Pa63-64).

On or about October 1, 2023, defendant moved to suppress evidence in his Union County case.[2] (Pa7).

After both parties filed briefs, (Pa8-19), the Union County court heard testimony on April 19, 2024, (Pa39).

On May 7, 2024, the Union County court denied defendant's motion to suppress and set forth its reasons for the denial in a written opinion. (Pa38-53).

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[1] The State designates the following abbreviation:
Pa – State's appendix

[2] There is a scrivener's error on the notice of motion. The body of the order indicates defendant is seeking to dismiss the indictment, but the briefs all relate to a motion to suppress physical evidence. (Pa7; Pa61).

On October 30, 2024, defendant moved to suppress the same evidence in his Hudson County case. (Pa54-56).

On December 6, 2024, the State filed a brief in opposition, arguing defendant should be barred from moving to suppress. In support of its collateral estoppel argument, the State filed defendant's Union County notice of motion to suppress; the parties' briefs regarding the Union County motion; and the Union County court's order and opinion denying defendant's motion. (Pa61).

On December 20, 2024, defendant filed a brief in support of his motion and in opposition to the State's motion[3] for collateral estoppel.[4]

The Hudson County court heard oral argument on December 20, 2024. (Pa67).

On December 27, 2024, the State filed a supplemental brief on the issue of collateral estoppel, and on January 2, 2025, defendant filed a supplemental brief in opposition.

[3] Although the State did not file a motion for collateral estoppel, the court treated the State's argument as a motion to the extent that it issued an order and opinion denying the application of collateral estoppel. (Pa1-3).

[4] Defendant also attached as exhibits the Union County court's orders denying the State's motion to consolidate defendant's Union County and Hudson County cases. (Pa62). An appeal from this order denying the motion to consolidate is pending before this court, Docket No. A-1234-24.

On January 24, 2025, the Hudson County court denied the State's motions for collateral estoppel and a stay, it and scheduled a testimonial hearing for the motion to suppress on February 14, 2025. (Pa1-4; Pa69).

On January 29, 2025, the State submitted an application for permission to file an emergent motion. (Pa77-87).

On the same day, this court denied the application for permission to file an emergent motion. (Pa88-89).

This motion for leave to appeal follows.

STATEMENT OF FACTS[5]

At approximately 10:00 p.m. on April 23, 2024, Jersey City Police Department ("JCPD") police officers Joaquin Rodriguez and Gabriel Moreano were on duty when a "be on the lookout" ("BOLO") was issued for a red Mercedes-Benz bearing New Jersey registration [redacted] that had entered Jersey City. (Pa59). The BOLO further indicated the vehicle had just been involved in a carjacking in Elizabeth, New Jersey, and the three male occupants of the vehicle were considered armed and dangerous. (Pa59).

The JCPD and Newark Police Department Aviation Helicopter unit observed the vehicle multiple times, which was radioed to Officer Rodriguez. (Pa59). At approximately 10:38 p.m., dispatch radioed that the vehicle was abandoned at the intersection of Bramhall Avenue and Pine Street in Jersey City. (Pa60). Officer Rodriguez responded to the area in search of the actors. (Pa60).

While travelling on Communipaw Avenue towards Pine Street, Officer Rodriguez observed a male, later identified as defendant, wearing a black hoodie, black sweatpants, and a full ski mask. (Pa60). Defendant was holding

[5] The State relies on the facts as set forth in its December 6, 2024 brief in opposition to defendant's motion to suppress. In his brief in response, defendant adopted the State's statement of facts and also asserted the following: "Mr. Belle was not associated with the stolen car observed in the vicinity of his stop; Mr. Belle did not look directly at officers before proceeding away from them; officers lacked sufficient observations or reason to believe that Mr. Belle was armed or involved in the alleged carjacking; and officers generally lacked probable cause to seize and search Mr. Belle." (Pa62).

the right side of his waistband as he was jogging. (Pa60). Based on his training and experience, Officer Rodriguez believed defendant was armed. (Pa60).

Defendant then looked directly at the police vehicle and began running at a full sprint. (Pa60). As officers activated their emergency lights, defendant jumped a fence at 216 Pine Street with Officer Moreano directly behind him. (Pa60). Officer Moreano was able to grab defendant's leg, and during the scuffle, the officer observed a handgun in defendant's waistband. (Pa60). Defendant broke free and continued to run. (Pa60).

Officers then found defendant hiding under a Nissan Xterra. (Pa60). He was in possession of a Mercedes-Benz key fob and $1,744 in U.S. currency. (Pa60). Another officer recovered defendant's handgun in the backyard of a nearby home. (Pa60).

In his Union County case, defendant moved to suppress evidence seized as a result of his April 23, 2022 pursuit and arrest. (Pa7). After the parties fully litigated the motion, the Union County court denied defendant's motion on the merits. (Pa37-53).

After the motion had already been litigated and decided in Union County, defendant moved to suppress the same evidence seized as a result of his April 23, 2022 pursuit and arrest in his Hudson County case. (Pa54-56).

The State opposed the motion, arguing defendant should be barred from filing the motion based on the doctrine of collateral estoppel. (Pa67). Specifically, the State contended defendant should be estopped because he already litigated the same motion in another county and lost on the merits. (Pa67).

Defendant countered, arguing the issue presented in the Union County case is not identical to the issue presented in this case, and the order in Union County is not final for the purpose of collateral estoppel. (Pa68).

After considering the briefs and hearing oral argument, the court denied the State's motion for collateral estoppel. (Pa1-3). In so holding, the court found the issues in the motions were not identical; the order in Union County is not a final judgment for the purpose of collateral estoppel; and due process and fundamental fairness support a finding that defendant should have his day in court. (Pa1-3).

The State moved for a stay, which the court denied. (Pa4).

The State applied for permission to file an emergent application, which this court denied. (Pa88-89).

This motion for leave to appeal follows.

LEGAL ARGUMENT

POINT I

THE MOTION COURT ERRED BY DENYING THE STATE'S MOTION FOR COLLATERAL ESTOPPEL BECAUSE DEFENDANT HAS ALREADY FULLY AND FAIRLY LITIGATED THE SUPPRESSION MOTION IN UNION COUNTY, THE ISSUES IN BOTH MOTIONS INVOLVED THE CONSTITUTIONALITY OF THE SEIZURE OF EVIDENCE FOLLOWING DEFENDANT'S ARREST, AND THE COURT RENDERED AN ORDER AND OPINION ON THE MERITS. (Pa1-3).

Collateral estoppel "bars relitigation of any issue which was actually determined in a prior action, generally between the same parties, involving a different claim or cause of action." Tarus v. Borough of Pine Hill, 189 N.J. 497, 520 (2007) (quoting Sacharow v. Sacharow, 177 N.J. 62, 76 (2003)). The purpose of the collateral estoppel doctrine is to "serve the important policy goals of 'finality and repose; prevention of needless litigation; avoidance of duplication; reduction of unnecessary burdens of time and expenses; elimination of conflicts, confusion and uncertainty; and basic fairness.'" First Union Nat'l Bank v. Penn Salem Marina, 190 N.J. 342, 352 (2007) (quoting Hackensack v. Winner, 82 N.J. 1, 32-33 (1980)).

Under the doctrine of collateral estoppel, a party is barred from re-litigating an issue when the party asserting the bar has demonstrated the following:

> (1) the issue to be precluded is identical to the issue decided in the prior proceeding; (2) the issue was actually litigated in the prior proceeding; (3) the court in the prior proceeding issued a final judgment on the merits; (4) the determination of the issue was essential to the prior judgment; and (5) the party against whom the doctrine is asserted was a party to or in privity with a party to the earlier proceeding.
>
> [State v. Brown, 394 N.J. Super. 492, 502 (App. Div. 2007) (quoting First Union Nat'l Bank, 190 N.J. at 352).]

A. The Motion Court Erred When It Found the Issues in Both Motions to Suppress Are Not Identical.

Here, the motion court erroneously determined "the issue in the current suppression motion is not identical to the issue decided by the [c]ourt in Union County." (Pa1-2).

In considering whether issues are identical, a court must determine

> (1) whether the acts complained of and the demand for relief are the same (that is, whether the wrong for which redress is sought is the same in both actions); (2) whether the theory of recovery is the same; (3) whether the witnesses and documents necessary at trial are the same (that is, whether the same evidence necessary to maintain the second action would have been sufficient to support the first); and (4) whether the material facts alleged are the same.
>
> [First Union Nat'l Bank, 190 N.J. at 353 (quoting Culver v. Ins. Co. of N. Am., 115 N.J. 451, 461-62 (1989)).]

Here, all of these factors have been met. As set forth in the statement of facts, defendant is moving to suppress physical evidence, including the handgun, seized when JCPD officers pursued and arrested him on April 23, 2022. Defendant already moved to suppress physical evidence, including the handgun, seized when JCPD officers pursued and arrested him on April 23, 2022. The

same incident – defendant's arrest on April 23, 2022, by JCPD police officers – is the "act complained of" in both motions. And the "demand for relief" – suppression of the physical evidence – is the same in both motions. Thus, the first factor is satisfied.

The second factor, the theory of recovery, does not appear to be applicable here, except to the extent that, should defendant's motion be granted, he seeks suppression of evidence seized.

The third and fourth factors are also satisfied. Because both motions involve the same incident – defendant's arrest on April 23, 2022 – the witnesses and evidence needed to determine the constitutionality of the arrest, search, and seizure are the same. Likewise, the material facts are the same because the incident is identical, and the issue – the constitutionality of the arrest, search, and seizure – is identical.

For these reasons, the motion court erred when it determined the issue in the Hudson County suppression motion is not identical to the issue in the Union County suppression motion.

To the extent the court found the issues are not identical because "the scope of the evidence sought to be suppressed is different," this has no bearing on the constitutionality of the officers' seizure of defendant and the evidence. Whether defendant seeks to suppress all or some of the evidence seized as a

result of officers' pursuit and arrest of defendant does not affect the analysis of whether that pursuit and arrest was lawful.

Contrary to defendant's argument, the fact that defendant may seek to suppress statements he made during the course of his arrest does not alter this conclusion because "[t]he admission of a defendant's statement against him at a criminal trial should not be the subject of a 'motion to suppress.'" State v. W.B., 205 N.J. 588, 602 n.3 (2011). Rather, "Rule 3:5-7 . . . deals with motions to suppress physical evidence," and "the State has the affirmative duty to prove" a defendant's statement is admissible. Ibid.

The court's determination that the issues are different because defendant intends to raise different arguments similarly rests on a faulty premise.

Initially, collateral estoppel is "guided by the 'fundamental legal principle . . . that once an issue has been fully and fairly litigated, it ordinarily is not subject to relitigation between the same parties either in the same or in subsequent litigation.'" State v. K.P.S., 221 N.J. 266, 277 (2015) (alteration in original) (quoting Morris Cnty. Fair Hous. Council v. Boonton Twp., 209 N.J. Super. 393, 444 n.16 (Law Div. 1985)). "Simply put, for collateral-estoppel purposes, 'the question to be decided is whether a party has had his day in court on an issue.'" Id. at 278 (quoting McAndrew v. Mularchuk, 38 N.J. 156, 161 (1962)).

Related to this principle is the requirement of a defendant to timely assert his rights or risk waiving them, for even "a meritorious challenge to an illegal search may be lost if not made when required." State v. Boyd, 165 N.J. Super. 304, 309 (App. Div. 1979). Thus, when a defendant moves to suppress evidence under Rule 3:5-7, he must specify which aspect of the warrantless search he is challenging and raise any relevant arguments before the motion court so it can rule on those issues. State v. Witt, 223 N.J. 409, 418-19 (2015). If he fails to do so at the appropriate time, then courts may decline to consider newly-minted arguments raised after a court has already decided a motion to suppress. Ibid. (refusing to entertain a belatedly raised issue on appeal when "the State was deprived of the opportunity to establish a record that might have resolved the issue"); see also State v. Gora, 148 N.J. Super. 582, 592 (App. Div. 1977) (holding that a defendant was "duty-bound to present all his proofs concerning the alleged unlawfulness of [an act] at the hearing on the suppression motion").

Here, defendant has already had the opportunity to fully and fairly litigate his motion to suppress relating to his April 23, 2022 arrest. At the time of his motion in Union County, he could have raised the alleged issue of officers' failure to record or preserve body-worn cameras, the State could have developed the record regarding that issue during testimony, and the Union County court could have addressed the issue then. Defendant's failure to do so in Union

County does not negate the fact that he has already had his day in court on the suppression motion. See Tuohy v. Director, Division of Taxation, 32 N.J. Tax 561, 573 (2022) ("Collateral estoppel does not preclude a party from litigating an issue for the first time. However, it does preclude a party from relitigating an issue in light of a different legal principle or argument-particularly when, as here, the facts and law are the same and the party had a 'full opportunity' in the earlier determination to present the issue litigated in light of that principle or argument." (quoting Blair v. Taxation Div. Director, 9 N.J. Tax 345, 355 (1987))). By determining the issue is different because defendant is raising a different argument, the court is simply providing counsel an incentive for game-playing.

For these reasons, the court erred when it found the issues are not identical.

B. The Motion Court Erred When It Determined the Union County Order Does Not Satisfy the Finality Requirement Under the Doctrine of Collateral Estoppel.

The court also erred when it denied the State's motion on the grounds that the Union County order is not a final judgment that may be appealed by right. (Pa2).

"New Jersey courts follow the doctrine of collateral estoppel or the rule of issue preclusion described in the Restatement of Judgments." Barker v.

Brinegar, 346 N.J. Super. 558, 566 (App. Div. 2002) (quoting Hernandez v. Region Nine Hous. Corp., 146 N.J. 645, 659 (1996)). "[F]or the purposes of issue preclusion . . . , 'final judgment' includes any prior adjudication of an issue in another action that is determined to be sufficiently firm to be accorded conclusive effect." Restatement (Second) of Judgments § 13 (1982).

"In civil litigation, where issue preclusion and its ramifications first developed, the availability of appellate review is a key factor."[6] Bravo-Fernandez v. United States, 580 U.S. 5, 10 (2016). However, this is not the case for criminal proceedings. Ibid.; see also Brown, 394 N.J. Super. at 502 (observing that "[c]ivil and criminal proceedings involve different values" and recognizing the doctrine of collateral estoppel differs between civil and criminal cases).

Indeed, even in the civil context, "[t]here is no bright-line rule regarding what constitutes a 'final judgment' for issue preclusion." Free Speech Coal., Inc. v. Attorney Gen. of U.S., 677 F.3d 519, 541 (3d Cir. 2012); see also In re Liquidation of Integrity Ins. Co., 214 N.J. 51, 68 (2013) (observing the finality requirement for collateral estoppel is "less stringent" than the finality requirement for res judicata). Rather, "finality 'may mean little more than that

[6] Despite being a key factor, "New Jersey courts hold that a judgment is final even pending an appeal." Bondi v. Citigroup, Inc., 423 N.J. Super. 377, 426 (App. Div. 2011).

the litigation of a particular issue has reached such a stage that a court sees no really good reason for permitting it to be litigated again.'" Free Speech Coal., Inc., 677 F.3d at 541 (quoting In re Brown, 951 F.2d 564, 569 (3d Cir. 1991)). To determine whether the prior ruling constitutes a final judgment for issue preclusion, courts consider "whether the parties were fully heard, whether a reasoned opinion was filed, and whether that decision could have been, or actually was, appealed." Ibid. (quoting Brown, 951 F.2d at 569). Notably, "[n]one of these factors appears to be determinative." Ibid.

Here, defendant's motion to suppress was fully heard in Union County. Both parties briefed the motion, testimony was taken, the court heard oral argument, and the court issued an order and opinion setting forth its reasons for denying the motion. The court's ruling is "sufficiently firm to be accorded conclusive effect," Restatement (Second) of Judgments § 13 (1982), and litigation of the motion has reached such a stage that there is "no really good reason for permitting it to be litigated again," Free Speech Coal., Inc., 677 F.3d at 541 (quoting Brown, 951 F.2d at 569).

For these reasons, the Union County court's denial of defendant's motion to suppress satisfies the finality requirement for the purpose of collateral estoppel, and the trial court erred when it found otherwise.

C. The Court's Reliance on the Doctrine of Fundamental Fairness Is Misplaced Because Defendant Has Already Fully and Fairly Litigated the Motion to Suppress in Union County.

Finally, the court held "due process and fundamental fairness support a finding that Defendant should not be estopped from having his day in Court on the current motion to suppress." (Pa2). In making this finding, the court observed the State had not cited to or referenced a case in which the doctrine was used offensively against a criminal defendant. (Pa3).

Initially, the court's reliance on the doctrine of fundamental fairness is misplaced.

"An 'integral part' of [the] guarantee of due process is the doctrine of fundamental fairness." State v. Njango, 247 N.J. 533, 548 (2021). "The doctrine of fundamental fairness 'serves to protect citizens generally against unjust and arbitrary governmental action, and specifically against governmental procedures that tend to operate arbitrarily.'" State v. Saavedra, 222 N.J. 39, 67 (2015) (quoting Doe v. Poritz, 142 N.J. 1, 108 (1995)).

However, the doctrine should only be applied "sparingly," and only in "those rare cases where not to do so will subject the defendant to oppression, harassment, or egregious deprivation." Doe, 142 N.J. at 108 (quoting State v. Yoskowitz, 116 N.J. 679, 712 (1989)). "The doctrine's 'primary considerations should be fairness and fulfillment of reasonable expectations in the light of the

constitutional and common law goals.'" Saavedra, 222 N.J. at 67-68 (quoting Yoskowitz, 116 N.J. at 706).

Here, defendant's guarantee of due process is not violated by estopping him from filing this motion to suppress because, contrary to the court's finding otherwise, defendant has already had his day in court. He had the opportunity to litigate this exact motion involving the same stop in his Union County case. Given that he has already had this opportunity, preventing him from re-litigating the same motion will not deprive him of anything.

K.P.S. does not support a different conclusion. There, the Supreme Court found a defendant cannot be barred from a full and fair opportunity for appellate review of an order adjudicating a motion simply because a co-defendant received a ruling on similar issues based on the same record. 221 N.J. at 279-80. To hold otherwise would deny a defendant his right to due process. Id. at 280.

The same concerns are not applicable here because defendant has already had his day in court on the motion to suppress, and, should he be convicted, he still has the right to appeal from the denial of his suppression motion. See R. 3:5-7(d). Thus, this is not one of those rare cases where applying the doctrine of fundamental fairness would be appropriate.

Nor does State v. Gonzalez, 75 N.J. 181 (1977), warrant a different result. There, the Supreme Court determined it was unfair for the defendant to have his suppression motion denied when his co-defendant's motion had been granted, and the hearings were substantially identical. Id. at 195-96. Part of why the Court determined the inconsistent results were unfair was because the defendant was unable to join his co-defendant's motion to suppress due to no fault of his own. Id. at 195. Thus, the Court reversed the defendant's judgment of conviction and remanded the matter for entry of an order of suppression. Id. at 196-97.

For the reasons set forth above, these concerns about fairness are not applicable here. In fact, the Court warned about its concerns in applying collateral estoppel in situations like this, as it "would create an incentive for codefendants to schedule their motions consecutively so as to capitalize on a favorable ruling." Id. at 195. Such a concern is warranted here because, by failing to apply collateral estoppel, it creates an incentive for defendant to move to suppress the same evidence at different times to capitalize on a potentially favorable ruling.

Additionally, there is one New Jersey case where the State successfully used collateral estoppel offensively against a criminal defendant. In State v. Davis, 2010 WL 4056849 (App. Div. July 13, 2010), this court held the

defendant was barred from re-litigating a Miranda[7] motion in one county when he had already unsuccessfully litigated it in another county.[8] Id. at *5-6. In making this determination, this court observed the same statement was at issue in both cases. Ibid.

Like the defendant in Davis, defendant has two separate cases in two separate counties. In one county, a motion has already been litigated and decided, and now defendant seeks to litigate the same motion in another county. Thus, just as the defendant in Davis was barred from re-litigating the same motion in another county, this defendant should be estopped from re-litigating the same motion in this county.

[7] Miranda v. Arizona, 384 U.S. 436 (1966).

[8] In compliance with Rule 1:36-3 and Rule 2:6-1(a), the State has included the unpublished opinion in its appendix. The State is unaware of contrary unpublished opinions.

POINT II

THIS COURT SHOULD GRANT THE STATE LEAVE TO APPEAL BECAUSE THE STATE HAS DEMONSTRATED GRANTING LEAVE IS IN THE INTEREST OF JUSTICE.

Although "[i]nterlocutory review is 'highly discretionary,'" Grow Co., Inc. v. Chokshi, 403 N.J. Super. 443, 461 (App. Div. 2008), an appellate court may grant a motion for leave to appeal if the moving party establishes the appeal has merit and demonstrates "justice calls for [an appellate court's] interference in the cause, Brundage v. Est. of Carambio, 195 N.J. 575, 599 (2008).

For the reasons set forth in Point I of the State's brief, the motion court erred when it denied the State's motion to estop defendant from moving to suppress evidence involving the same stop that has already been litigated in another county by the same parties and denied by another judge on the merits. Without this court's interference, the State will not have another opportunity to appeal for relief from this opinion and will be forced to re-litigate the same motion unnecessarily. Regardless of whether defendant is ultimately acquitted or convicted, the issue will be moot. Therefore, justice calls for this court to grant the State's motion for leave to appeal.

CONCLUSION

Based on the foregoing, the State submits that the State's leave to appeal should be **GRANTED**, the trial court's orders denying the State's motion for collateral estoppel should be **REVERSED**, and the matter should be **REMANDED** for further proceedings.

Respectfully submitted,

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LETTER BRIEF OPPOSING PLAINTIFF-APPELLANT'S MOTION FOR LEAVE TO APPEAL

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. AM-000287-24
INDICTMENT NO. HUD-23-02-0225

	:	**CRIMINAL ACTION**
STATE OF NEW JERSEY, Plaintiff-Appellant,	:	On Appeal From an Interlocutory Order of the Superior Court of New
v.	:	Jersey, Law Division, Hudson County.
RAHMEL BELLE, Defendant-Respondent.	:	Sat Below: Hon. David Labib, J.S.C.

DEFENDANT-RESPONDENT IS CONFINED

Honorable Judges:

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

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Defendant-Respondent's Appendix ("Dra")

TRANSCRIPTS

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1 Pursuant to N.J. Court Rule 2:6(a)(2), these briefs are appended because the trial court relied on their contents in rendering its decision.

[2] A transcript of the oral argument and adjournment request by the State is being ordered tomorrow (February 19, 2025) on a daily basis and will be immediately provided upon receipt. The argument occurred on the Friday before the holiday weekend which ended today and well after the State's filing of its motion for leave to appeal. The transcript is relevant to the Respondent-Defendant's opposition to this motion, specifically Point I.

PROCEDURAL HISTORY

The Defendant-Respondent adopts the Plaintiff-Appellant's procedural history (Plaintiff-Respondent's Brief at 1-2) and adds the following.

On February 14, 2025, Mr. Belle was produced from the Hudson County Jail to Judge Labib's courtroom for the scheduled testimonial hearing on his suppression motion. T1. The State made a renewed adjournment request, asking that testimony be delayed until after this Court rules on the instant motion for leave to appeal. T1. The State also renewed its application for a stay from the trial court. T1.

Those applications were premised on the State's offer to "release" Mr. Belle from custody on the Hudson County charges. The Defense opposed the State's offer once the State indicated that it would not support Mr. Belle's release on the Union County charges as well (and, therefore, that Mr. Belle would remain in custody but stripped of his statutory speedy trial rights on his Hudson County case). T1. The State filed a motion to reopen detention over the Defense's objection, which was later withdrawn. T1. Judge Labib ultimately denied the State's requests for an adjournment or a stay. T1. The State then announced that its global plea offer across both cases—for concurrent sentences of twelve years in New Jersey State Prison subject to

the No Early Release Act—would escalate to consecutive sentences amounting to 24 years in prison if Mr. Belle does not consent to adjourn testimony until after this Court rules on the motion for leave to appeal. T1.

The testimonial hearing was then carried to February 20, 2024, due to time constraints caused by these various developments. T1.

STATEMENT OF FACTS

The Defendant-Respondent adopts the Plaintiff-Appellant's Statement of Facts (Plaintiff-Respondent's Brief at 4-6), including the footnote describing the differences in the Defendant-Respondent's position on the relevant facts affecting the underlying suppression motion (id. at n.5).

LEGAL ARGUMENT

POINT I

> LEAVE FOR APPEAL IS NOT IN THE INTERESTS OF JUSTICE GIVEN THE PREMATURE POSTURE OF THE DISCRETIONARY ISSUES PRESENTED, THE REPEATED DELAYS THAT HAVE ALREADY PREVENTED A TIMELY ADJUDICATION OF THIS DETAINED DEFENDANT'S MOTION, AND THE STATE'S UNBECOMING TACTICS AND GAMESMANSHIP. (Pa 1-89)

N.J. Court Rule 2:2-4 allows the Appellate Division to grant leave to appeal from an interlocutory order when it is in the interests of justice. An appellate court only intervenes "where there is some showing of merit and

justice calls for…interference in the cause" and "where some grave damage or injustice may be caused by the order below" or the appellate court's action "will terminate the litigation and thus very substantially conserve the time and expense of the litigants and the courts." Romano v. Maglio, 41 N.J. Super. 561, 568 (App. Div.), certif. denied, 22 N.J. 574 (1956), cert. denied, 53 U.S. 923 (1957). Granting leave to appeal here would frustrate each of those goals.

As a threshold issue, the State wrongly asserts that "[w]ithout this court's interference, the State will not have another opportunity to appeal for relief..." Plaintiff-Appellant's Brief at 19. On the contrary, the State will have the right to seek appellate review if Judge Labib ultimately grants Mr. Belle's suppression motion. State v. Witt, 435 N.J. Super. 608, 610 (App. Div. 2014) ("[I]t is our general practice to grant the State's motions for leave to appeal the suppression of evidence") (citations omitted). The State would, at that time, be able to appeal any such decision both on the merits and in light of the issue preclusion arguments it raises. This Court already said as much in denying the State's application to file an emergent appeal on this issue:

> We deny the application as non-emergent. The State identifies the irreparable harm as the commencement of the hearing on defendant's motion to suppress. The State contends the commencement of that hearing will render moot the State's appeal of the January 24, 2025 order denying the State's issue-preclusion motion and will deprive the State of having the opportunity to seek

> this court's review of that order. The State also contends the "motion date," which we understand to mean the commencement of the suppression hearing, does not allow the State time to appeal the January 24, 2025 order. We deny the application because the commencement of the hearing neither renders moot any appeal of the January 24, 2025 order nor prevents the State from seeking leave to appeal that order.

Pa 88-89 (emphasis added). To be clear, the only asserted harm which the State could avoid through this motion for leave to appeal is the trial court taking testimony from a single police officer. Any argument about protecting an interest in litigating the collateral estoppel issue is a red herring given the premature posture of this application and the State's ability to pursue relief if suppression is granted.

For four reasons, it is not in the interests of justice to grant leave to appeal to potentially prevent that officer from taking the stand.

First, leave to appeal would invite an "unseemly parade" of piecemeal interlocutory litigation. See Grow Co., Inc. v. Chokshi, 403 N.J. Super. 443, 457 (App. Div. 2008) (New Jersey's appellate procedures exist to "avoid the elimination of 'an unseemly parade to the appellate courts,' which would occur if our courts adopted an indulgent approach to interlocutory review") (quoting Dickinson Indus. Site v. Cowan, 309 U.S. 382, 389 (1940)). That is exactly what would happen here if leave to appeal is granted and then Judge

Labib's decision is affirmed. It is also highly inappropriate. See State v. Reldan, 100 N.J. 187, 205 (1985) (leave to appeal is highly discretionary and "exercised only sparingly," to encourage an "uninterrupted proceeding at the trial level with a single and complete review" (citing N.J. Court Rule 2:2-4); In re Uniform Admin. Procedure Rules, 90 N.J. 85, 100 (1982) (same); State v. LeFante, 14 N.J. 584, 591-92 (1954) ("It is a cardinal principle with us to avoid…piecemeal appeals… [b]y doing so we have avoided the delay and the congestion that all too often prevail in judicial systems that freely permit piecemeal appeals and interlocutory reviews"); Wells Fargo Bank, N.A. v. Garner, 416 N.J. Super. 520, 524 (App. Div. 2010) (the interests of justice standard is "stringent," rooted in "the general policy against piecemeal review of trial level proceedings," and met "sparingly").

Interlocutory review of a collateral estoppel issue at this stage would also create an "added burden," as the parties would be "forced to take an appeal in the first case in order ... not to be precluded regarding the admissibility of evidence in any future case." United States v. McMillian, 898 A.2d 922, 936 (D.C. Ct. App. 2006) (quoting 5 Wayne R. LaFave, Search and Seizure 11.2(g), at 103 (4th ed. 2004)). See id. ("If it were necessary to appeal solely for the purpose of avoiding the application of the rule of issue preclusion, then the rule

might be responsible for increasing the burdens of litigation on the parties and the courts rather than lightening those burdens") (quoting Restatement (Second) of Judgments 28 comment 1 (1980)). Even if this Court grants leave and reverses the trial court, the case will still go on. Simply put, this appeal cannot produce a final resolution and represents a substantial increase in burden for all involved.

Second, the interests of justice weigh against granting leave to appeal because Mr. Belle has been in custody throughout the pendency of these charges filed in August 2022.[3] Since this case was filed, Mr. Belle has languished in pretrial custody for two-and-a-half years. Moreover, the instant suppression motion has been pending without a hearing since October 30, 2024—111 days as of this writing. The trial court expeditiously sought to schedule the motion for testimony, but the State repeatedly obstructed having a hearing. Even if expedited, leave for appeal will extend this period of pretrial confinement in a manner inconsistent with the presumption of innocence.

Third, this Court should deny leave for appeal given the State's untoward tactics and gamesmanship in seeking to block testimony before the trial court. In

[3] Mr. Belle was already detained on the Union County matter in May 2022. The State filed the Hudson County charges, pertaining to an alleged April 2022 incident, in August 2022. The State later successfully moved to formally detain Mr. Belle on the Hudson County matter in March 2023.

general, the State's collateral estoppel argument is effectively a third "bite at the apple" on the consolidation motion that was denied in Union County in the first instance, was denied again upon the State's motion for reconsideration there, and which is now pending appeal. Pa 1-65. The State's position now—despite having separately indicted the two cases—is that they concern interrelated events and that the suppression motions demonstrate as much. However, the State should not be rewarded for filibustering the proceedings unless it gets its way on its revised position. Both trial courts ruled that the cases against Mr. Belle must proceed in the normal course, but the State responded by filing repeated applications across both trial courts and, after the denial of those applications, repeatedly requested adjournments while seeking interlocutory review in both matters. Pa 1-64; T1.

After the trial court denied the State's most recent adjournment request, the State "offered" to "release" Mr. Belle on only the Hudson County charges—to vitiate any statutory speedy trial rights and persuade the trial court to reconsider granting an adjournment. T1. The Defense opposed the State's opportunistic application to release Mr. Belle because, when pressed, the State indicated that it would not seek or support Mr. Belle's release on the Union County charges and that its proposal was premised on the understanding that Mr. Belle would remain confined. T1. The Assistant Prosecutor conceded during oral argument that it was

still the State's position that Mr. Belle remained sufficiently dangerous to the community to warrant detention. T1. The State then withdrew its motion to reopen detention and, instead, announced that it would escalate its global plea offer—from an effective 12 years in prison across both matters to an effective 24 years—unless Mr. Belle consented to delaying the suppression hearing. T1. Granting leave to appeal would only serve to reward those untoward tactics, which are unbecoming of the State and inconsistent with its mandate to do justice.

Finally, the interests of justice do not support granting leave to appeal because the issue preclusion issue is a discretionary one even where all the factors cited by the State are met. "The doctrine of res judicata is not absolute." State v. One Wrist Sling Shot, 230 N.J. Super. 498, 504 (App. Div. 1989) (citing Hodgson v. Applegate, 31 N.J. 29, 43 (1959); Matter of Coruzzi, 95 N.J. 557, 568 (1984), app. dism., 469 U.S. 802; Plainfield v. Public Service Electric and Gas Co., 82 N.J. 245, 258–259 (1980)). Deference to the trial court's discretion on that issue is warranted here. The State has not articulated any significant interest in precluding this suppression hearing from taking place, and far more resources have been expended on seeking to avoid it.[4] Counsel for both the State and for

[4] The Assistant Prosecutor argued that the injury to the State from taking testimony would be that its police witness could testify inconsistently to his testimony before the trial court in Union County. T1. The risk of a police officer

Mr. Belle are paid fixed salaries to appear in court, and there is no issue of attorneys' fees or other significant undue expense to any party. Compared with re-litigating a lengthy civil trial, recalling expert witnesses, or compelling the testimony of a potentially traumatized child victim, an hour of testimony from a single Jersey City Police Department officer does not implicate the policy considerations that underly the doctrine of issue preclusion.

"It is equally clear that '[e]ven where these requirements are met, the doctrine [of issue preclusion], which has its roots in equity, will not be applied when it is unfair to do so.'" One Wrist Sling Shot at 521-22 (quoting Pace v. Kuchinsky, 347 N.J. Super. 202, 215 (App. Div. 2002)). In a serious criminal case such as this one, a defendant has important constitutional and liberty interests which, at a minimum, serve as a counterweight to the State's interest in pursuing issue preclusion and militate against granting leave to appeal at this time.

POINT II

THE TRIAL COURT PROPERLY FOUND THAT COLLATERAL ESTOPPEL IS IMPROPER. (Pa 1-89)

A court may collaterally estop a party from seeking certain relief if: (1) the issue to be precluded is identical to the issue decided in the prior

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testifying inconsistently under oath is not a cognizable harm to the State; it is a serious problem that the State must redress if there is a demonstrable risk of it.

proceeding; (2) the issue was actually litigated in the prior proceeding; (3) the court in the prior proceeding issued a final judgment on the merits; (4) the determination of the issue was essential to the prior judgment; and (5) the party against whom the doctrine is asserted was a part to or in privity with a party to the earlier proceeding. First Union Nat'l Bank v. Penn Salem Marina, 190 N.J. 342, 352 (2007). The trial court appropriately denied the State's collateral estoppel motion because neither the third nor first factor is met.

A. THE UNION COUNTY ORDER DENYING SUPPRESSION IS NOT A FINAL JUDGMENT FOR THESE PURPOSES.

It is well established that the denial of a suppression motion is interlocutory in nature and, prior to a conviction, requires a motion for leave to appeal. N.J. Court Rule 3:5-7(e) (such appeals fall under N.J. Court Rule 2:5-6, which establishes the procedure for interlocutory appeals). In this way, an order denying a suppression motion is unlike a conviction, which is a final judgment that may be appealed by right. See N.J. Court Rule 2:2-3(b) (final judgments "are judgments that finally resolve all issues as to all parties…"). An order granting a suppression motion also requires the State to seek leave to appeal on an interlocutory basis. Witt, 435 N.J. Super. at 610 (App. Div. 2014) ("[I]t is our general practice to grant the State's motions for leave to appeal the suppression of evidence"). This all conclusively illustrates that a trial court's suppression decision, prior to the resolution of a

criminal case, is not a final judgment[5] capable of carrying preclusive effect.

Moreover, a decision denying a suppression motion is not final insofar as it is still amenable to a motion for reconsideration. See State v. Keogh, No. A-0773-23 (App. Div. Feb. 7, 2025)[6] (a trial court has an "inherent power" to "review, revise, reconsider, and modify its interlocutory orders at any time prior to the entry of final judgment") (citing Lombardi v. Masso, 207 N.J. 517, 534 (2011)). This Court specifically emphasized that interlocutory orders like the

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[5] Other jurisdictions have reached the same result. See People v. Hernandez, 155 Colo. 519, 395 P.2d 733 (1964) (order sustaining motion to suppress evidence in narcotics case was not a final judgment); State v. Curcio, 191 Conn. 27, 463 A.2d 566 (1983) (denial of pretrial motion to suppress is purely interlocutory and, therefore, is not appealable as a final judgment); Doe v. State, 185 Ga. App. 347, 364 S.E.2d 78 (1987) (order denying motion to suppress is not a final judgment and must be reviewed under interlocutory appeal procedure); McDowell v. State, 158 Ga. App. 712, 282 S.E.2d 125 (1981) (because denial of motion to suppress evidence is not a final judgment, appeal dismissed for want of jurisdiction where defendant failed to follow prescribed interlocutory appeal procedures); Matthews v. State, 59 Md. App. 15, 474 A.2d 530 (1984) (order granting motion to suppress could properly be reconsidered upon motion of the State because it was not a final judgment); State v. Ensor, 27 Md. App. 670, 342 A.2d 1 (1975) (order granting motion to suppress evidence was interlocutory a not a final judgment); State v. Donley, 2017 Ohio 562, 85 N.E.3d 324 (Ohio Ct. App. 2d Dist. Montgomery County 2017) (trial court was authorized to reconsider its ruling on defendant's motion to suppress evidence because the ruling was interlocutory and not final judgment in defendant's criminal case); Martinez v. Craven, 429 F2d 18 (9th Cir. 1970) (order granting defendant's motion was not final judgment on merits and, therefore, doctrine of res judicata did not apply). (Dma 1-10)

[6] This published decision has not yet been assigned a place in the official reports. For the sake of convenience, it can be found at 2025 WL 422609, at *7.

one from Union County are not final until there is a final judgment for the matter as a whole. "Until entry of final judgment, only 'sound discretion' and the 'interest of justice' guides the trial court, as Rule 4:42-2 expressly states." Id. (citing Lawson v. Dewar, 468 N.J. Super. 128, 134, (App. Div. 2021)). "By comparison, governed by Rule 4:49-2, reconsideration of a final order is appropriate for a 'narrow corridor' of cases" where a much higher showing is made as to the alleged error. Id. (citing Fusco v. Bd. of Educ. of Newark, 349 N.J. Super. 455, 462 (App. Div. 2002)) (quoting D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990)). The Union County order denying suppression is still amenable to reconsideration under that laxer standard because no final judgment has been entered in that case. Therefore, that decision is not a "final judgment" capable of supporting collateral estoppel.

The State mistakenly argues that the term "final judgment" has a different meaning for the purposes of issue preclusion than it does for the purposes of appellate review. Plaintiff-Appellant's Brief at 12-14. Specifically, the State argues that the definition of "final judgment" used by the Restatement of Judgments is controlling for these purposes. Id. (citing Barker v. Brinegar, 346 N.J. Super. 558, 566 (App. Div. 2002) (quoting Hernandez v. Region Nine Hous. Corp., 146 N.J. 645, 659 (1996)). "[F]or the purposes of issue preclusion… 'final

judgment' includes any prior adjudication of an issue in another action that is determined to be sufficiently firm to be accorded conclusive effect." Plaintiff-Appellant's Brief at 12-13 (quoting Restatement (Second) of Judgments § 13 (1982).

However, the State mistakenly relies on comments to the Restatement (Second) of Judgments, and the text of the Restatement itself, as binding. In Olivieri v. Y.M.F. Carpet, Inc., the Supreme Court stated that the issue of what constitutes "final judgements is informed" by the Restatement. 186 N.J. 511, 523 (2006). While the text of the Restatement is certainly relevant, it is far from controlling, especially in the specific context of collateral estoppel. Moreover, its commentary is just that: commentary to consider. This is important in the context of criminal cases because they have different policy interests and constitutional implications than the civil cases considered by the Restatement. The State lacks any relevant support for its proposition that "finality 'may mean little more than that the litigation of a particular issue has reached such a stage that a court sees no really good reason for permitting it to be litigated again.'" Plaintiff-Appellant's Brief at 13-14 (quoting Free Speech Coal., Inc. v. Att'y Gen., 677 F.3d 519, 541 (3d Cir. 2012); In re Brown, 951 F.2d 564, 569 (3d Cir. 1991)).

Finally, the absence of the defendant's ability to appeal the Union County decision by right further demonstrates that it is not a "final judgment." Justice

Ginsburg, writing for the United States Supreme Court, emphasized the importance of appellate review in the context of collateral estoppel:

> In significant part, preclusion doctrine is premised on "an underlying confidence that the result achieved in the initial litigation was substantially correct." Standefer v. United States, 447 U.S. 10, 23, n. 18, 100 S.Ct. 1999, 64 L.Ed.2d 689 (1980); see Restatement § 29, Comment f, at 295. "In the absence of appellate review," we have observed, "such confidence is often unwarranted." Standefer, 447 U.S., at 23, n. 18, 100 S.Ct. 1999.

Bravo-Fernandez v. United States, 580 U.S. 5, 10 (2016). In response, the State argues that appellate review is only a "key factor" "[i]n civil litigation, where issue preclusion and its ramifications first developed…" Plaintiff-Appellant's Brief at 13 (citing id.; State v. Brown, 394 N.J. Super. 492, 502 (App. Div. 2007) ("[c]ivil and criminal proceedings involve different values")). But that is exactly the inverse of our law. It would make no sense whatsoever for the Supreme Court to have held that the presence of appellate review only matters in the civil context.

Criminal defendants generally have more, not fewer, rights to challenge adverse judgments or rulings than civil litigants, and the existence of appellate review is perhaps even more important in the criminal context than it is in the civil context. Common sense and basic legal principles foreclose any finding to the contrary. This section of Justice Ginsburg's opinion focused on the civil context because the section immediately preceding the passage excerpted above

discusses how an acquittal in the criminal context is an unreviewable final judgment because the Double Jeopardy Clause effectively requires collateral estoppel without any opportunity for appeal by the government. Bravo-Fernandez, 580 U.S. at 9 (citing U.S. CONST. amend. V). Nothing about the Supreme Court's decision suggests that appellate review, where it is constitutionally permissible, is any less important in the criminal context before collateral estoppel is applied. Therefore, the Union County decision is not a "final judgment" because it has not been subject to appellate review by right.

B. THE ISSUES TO BE PRECLUDED ARE NOT IDENTICAL.

There is no dispute that the April 23, 2022 arrest at issue in the Hudson County case was also the subject of the Union County suppression motion. However, Judge Labib carefully reviewed the record before the trial court and properly determined that collateral estoppel was inapplicable because the issue to be precluded is not "identical" to one decided in the prior proceeding. This finding was supported by several pertinent differences. First, the scope of discovery provided to the Defense in Hudson County was different than what was provided in Union County prior to the suppression hearing conducted there. Dra 2-4. While those sets of discovery overlap, the differences in what was available based on the separate underlying incidents charged in each county

affect the adjudication of each motion. For instance, the Hudson County Prosecutor's Office provided police reports about the carjacking in Elizabeth that caused officers to pursue the vehicle which Mr. Belle is alleged to have run away from before his arrest in Jersey City. However, additional evidence like the body worn camera footage from the investigation into that carjacking and the radio transmissions between Elizabeth, Newark, and even Jersey City officers were not provided. The State's proofs are, of course, circumscribed by the scope of discovery. Thus, the issue to be precluded is not identical.

Second, there is a different legal theory for relief at issue in the Hudson County motion. The Jersey City police officers who pursued, seized, searched, and arrested Mr. Belle did not activate their body worn cameras until after the chase was already well under way, despite having been actively engaged in searching for suspects. Dra 1-4. While the State's witness was asked during his Union County testimony about his usage of body worn camera, that issue was not argued in the briefs submitted to the trial court in Union County or discussed by the judge in his decision denying Mr. Belle's suppression motion. Dra 1-4. This is significant because N.J.S.A. 40A:14-118.5(q)(2) creates "a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was

destroyed and not captured. See State v. Jones, 475 N.J. Super. 520, 531-34 (App. Div. 2023) (applying the same to suppression hearings). The Judge in Union County did not have the opportunity to afford Mr. Belle any kind of exculpatory inference, which, when applied in Hudson County, will have a significant effect on the disposition of the instant suppression motion.

The State argues that Mr. Belle could and should have raised this issue in Union County. Plaintiff-Appellant's Brief at 11. Even if it would have been preferrable for that issue to have been argued and decided in Union County, it is not now deemed waived in Hudson County. The Union County case is not yet resolved nor has the Union County suppression decision become a final judgment that may no longer readily be reconsidered. Moreover, the State has cited no authority for the proposition that a defendant must raise all arguments in one county to avoid being collaterally estopped in a separate matter charged and venue in another county where the facts overlap. Such a requirement would put an undue burden on practitioners and invite gamesmanship on the part of parties. For instance, a defendant may be deterred from arguing a certain point or even pursuing a suppression motion in one county if the State, there, offers an exceptionally high plea offer there for doing so. Likewise, a favorable plea offer in one county may avoid the need for litigation there without also

benefiting the defendant in another county. The incentives for timing which indictment to bring first, what kind of plea offer to make where, and so on that would result from the State's position are pernicious and unnecessary. Therefore, the State's waiver argument should not be given serious weight.

In sum, the State has not shown that the issue to be precluded in Hudson County is identical to one already decided. While closely related, the instant motion involves a different universe of evidence, different legal theories, and the opportunity for Judge Labib to reach different factual and legal findings from those made in Union County. It is notable that the State advances this issue preclusion argument before testimony has been taken in Hudson County, depriving the trial court of the ability to see how these differences will materially affect the motion. See, e.g. State v. Cary, 49 N.J. 343, 352 (1967) ("[A] trial judge generally should not rule on the admissibility of particular evidence until a party offers it at trial"); State v. Hawthorne, 49 N.J. 130, 143 (1967) ("[M]ost evidence problems are best and most expeditiously settled in the atmosphere and context of the trial." The State's motion for leave to appeal should be denied.

C. THE OFFENSIVE USE OF COLLATERAL ESTOPPEL AGAINST A CRIMINAL DEFENDANT ON A PRESUMPTIVELY UNLAWFUL SEARCH AND SEIZURE IS GENERALLY INAPPROPRIATE.

There is good reason, generally, for not permitting the State to wield collateral estoppel as a sword against a criminal defendant seeking to suppress the fruits of a presumptively unlawful warrantless search or seizure. The roots of the use of collateral estoppel in criminal cases have to do with protecting defendants' Fifth Amendment protection against double jeopardy. State v. Redinger, 64 N.J. 41, 45–46 (1973) ("collateral estoppel, as applied in the federal decisions, must be considered a part of the Fifth Amendment's guarantee against double jeopardy and binding on the states through the Fourteenth Amendment") (citing Ashe v. Swenson, 397 U.S. 436 (1970)); Brown, 394 N.J. Super. at 501-02 ("the rule of collateral estoppel is embodied within the Double Jeopardy Clause, protecting a man who has been acquitted from having to 'run the gauntlet' a second time) (internal quotations and brackets omitted). The State's proposed application of this important constitutional protection is a distortion of those values that serves little justifiable interest. Perhaps this is why the State has not cited to a single authoritative case condoning this use of collateral estoppel.

The unpublished case relied upon by the State (Plaintiff-Appellant's Brief at 17-18), State v. Davis, has no precedential effect and was not even raised to the trial court. 2010 WL 4056849 (App. Div. July 13, 2010). Therefore, the trial court cannot have erred for failing to consider it, and the State should not now raise it

here. The interests in that case are also quite different. That case dealt with a statement, which, unlike this seizure and search, is not presumptively unlawful. State v. Nyema, 249 N.J. 509, 527 (2022) (warrantless searches and seizures are prima facie invalid). Finally, that defendant was facing multiple related cases in the same county, and, unlike here, that record is devoid of any denied applications to consolidate the actions. To apply collateral estoppel here would be tantamount to granting the State's consolidation request and treat these actions like one case when that has been repeatedly denied in Union County. Those circumstances distinguish these cases and render this case a poor one for this Court to announce a new rule blessing the State's offensive use of collateral estoppel against criminal defendants under circumstances like these.

CONCLUSION

Therefore, the State's motion for leave to appeal should be denied.

Respectfully submitted,

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