

IN THE SUPREME COURT OF OHIO

STATE OF OHIO)	CASE NO. 2023-1330
)	
Appellee,)	ON APPEAL FROM THE
)	COURT OF APPEALS OF
)	LORAIN COUNTY, NINTH
vs.)	APPELLATE DISTRICT,
)	CASE NO. 22CA011914
Antwan Taylor-Billings)	
)	LORAIN COUNTY COMMON
Appellant.)	PLEAS COURT CASE NO.
)	21CR105095
)	
)	
)	
)	

**MEMORANDUM OF APPELLEE IN
RESPONSE TO JURISDICTION**

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**EXPLANATION OF WHY THIS CASE DOES NOT INVOLVE A SUBSTANTIAL
CONSTITUTIONAL QUESTION AND IS NOT A CASE OF PUBLIC OR GREAT
GENERAL INTEREST**

The Supreme Court of Ohio can acquire jurisdiction of Appellant, Antwan Taylor-Billings's ("Taylor-Billings"), appeal only if he can demonstrate that this case involves a question of public or great general interest or a substantial constitutional question. S.Ct.Prac.R. 5.02(A)(1),(3). But, Taylor-Billings entirely fails in this regard. In fact, Taylor-Billings has not included a section in his memorandum in support of jurisdiction to explain why a substantial constitutional question is involved, why the case is of public or great general interest, or, in a felony case, why leave to appeal should be granted as required by S.Ct.Prac.R. 7.02(C)(2). Rather, Taylor-Billings' proposition of law clearly reveals that he seeks to have this Court engage in error correction. Generally, that is not what this Court does; and specifically, in this case, this Court should not. Moreover, Taylor-Billings' stated proposition of law needs no further review as it simply asks this Court to declare that an officer needs reasonable and articulable suspicion of a traffic violation to conduct a traffic stop of a motor vehicle. There is no question on that point and this Court need not provide further clarification on this legal issue.

In fact, the Ninth District Court of Appeals applied well-settled legal principles on the Fourth Amendment and the standard for reasonable suspicion. While Taylor-Billings is dissatisfied with this result, he is essentially requesting that this Court engage in factual development and apply the facts as it sees them, to the law as it already exists, in hopes that it will come to a different conclusion than the Court of Appeals below. For purposes of a jurisdictional appeal, however, this Court is not an error correcting court. Because Taylor-Billings fails to meet his burden of demonstrating that this case involves a question of public or great general interest or a substantial constitutional question, this Court should decline to extend

jurisdiction.

STATEMENT OF THE CASE AND FACTS

As set forth by the Ninth District Court of Appeals in its Decision rendered on September 5, 2023, the State incorporates the relevant facts to this appeal as follows:

On August 30, 2021, an Ohio State Trooper observed the lights on Taylor-Billings's vehicle toggle on and off, or off and on again. The trooper then began to follow Taylor-Billing's vehicle and observed the vehicle drive over the dash line. The trooper then initiated a traffic stop of Taylor-Billings' vehicle. After initiating the traffic stop, the trooper discovered a firearm, marijuana, and a variety of pills, which contained methamphetamine, inside the vehicle. The trooper had Taylor-Billings exit the vehicle and field sobriety tests and breathalyzer were administered. Taylor-Billings failed the field sobriety tests and the breathalyzer test.

Several months after the stop, Taylor-Billings was indicted on one count of a concealed weapon with an attendant forfeiture specification, one count of improperly handling a firearm in motor vehicle with an attendant forfeiture specification, one count of operating a vehicle under the influence of alcohol, and one count of operating a motor vehicle with a prohibited blood-alcohol concentration. Taylor-Billings pleaded not guilty to the charges at arraignment.

Taylor-Billings filed a motion to suppress, arguing that that there was no probable cause to conduct a traffic stop of his vehicle and the trooper did not have sufficient reasonable suspicion to conduct field sobriety tests. The State filed a brief in opposition to the motion to suppress. After Taylor-Billings filed his motion, the grand jury returned a supplemental indictment that included one count of trafficking in drugs with an attendant firearm specification as well as one count of possession of drugs. Taylor-Billings pleaded not guilty to the supplemental charges.

The matter proceeded to a hearing on the motion to suppress. The trial court subsequently issued a written decision granting Taylor-Billings' motion on the basis that the State failed to demonstrate that the trooper had an objectively reasonable belief that a traffic violation had occurred to justify the stop.

State v. Taylor-Billings, 9th Dist. No. 22CA011914, 2023-Ohio-3104, ¶¶ 4-5, 13.

The State of Ohio timely appealed and raised one assignment of error for review. On

September 5, 2023, the Ninth District sustained the State of Ohio’s one assignment of error and reversed the judgment of the trial court below. *Id.* at ¶ 23.

On October 19, 2023, Taylor-Billings filed a Notice of Appeal accompanied by a Memorandum in Support of Jurisdiction with this Court. The State hereby responds and urges this Court to decline jurisdiction.

LAW AND ARGUMENT

PROPOSITION OF LAW An Officer Needs Reasonable and Articulable Suspicion of a Traffic Violation to Conduct a Traffic Stop of a Motor Vehicle

RESPONSE TO PROPOSITION OF LAW

Taylor-Billings asks this Court to find error with the appellate court’s decision. Taylor-Billings wants this Court to announce that that trial court decision granting his motion to suppress was correct because the it was in a better position to evaluate the credibility of the witnesses. Instead of urging this Court to pronounce a general rule of law concerning a principle that is murky or unsettled, however, Taylor-Billings basically seeks error correction. This Court, however, doesn’t “take cases presenting pure error correction.” *State v. Azeen*, 2021-Ohio-1735, 163 Ohio St. 3d 447 , ¶ 72 (Brunner, J., dissenting), citing *Baughman v. State Farm Mut. Auto. Ins. Co.*, 88 Ohio St.3d 480, 492, 727 N.E.2d 1265 (2000) (Cook, J., concurring). That is reason enough for this Court to decline jurisdiction.

Moreover, Taylor-Billings’ proposition of law does not involve a substantial constitutional question of law that warrants review, clarification, or extension. Instead, he is only seeking a factual correction as he specifically states that the Ninth District’s decision was based on a resolution of factual issues. As this Court has held, [it is] not an error-correcting court; rather, its role as the court of last resort is to clarify confusing constitutional questions, resolve

uncertainties in the law, and address issues of public or great general interest. Significantly, appellate courts consider assignments of error, while this court considers propositions of law. (“The two are materially and substantively different”). *State v. Noling*, 136 Ohio St.3d 163, 2013-Ohio-1764, 992 N.E.2d 1095, ¶ 63 (O'Donnell, J., dissenting)

Nevertheless, even construing the merits of Taylor-Billings’ argument, the Ninth District correctly examined the main issue in this case, which was whether Trooper Wearsch had the requisite reasonable suspicion of a traffic violation to stop Taylor-Billings’ vehicle. As the Ninth District explained, the Fourth Amendment to the United States Constitution, as applied to the States through the Fourteenth Amendment, provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. Article I, Section 14, of the Ohio constitution contains nearly identical language. The traffic stop of a vehicle constitutes a seizure for the Fourth Amendment purposes. *Whren v. United States*, 517 U.S. 806, 809-810 (1996)

A law enforcement officer may stop a vehicle when the officer has reasonable suspicion, based on specific and articulable facts, that an occupant is or has been engaged in criminal activity. *Dayton v. Erickson*, 76 Ohio St.3d 3, 11-12(1996) (where an officer has articulable reasonable suspicion or probable cause to stop a motorist for any criminal violation, including a minor traffic violation, the traffic stop is constitutionally valid); *State v. Epling*, 105 App.3d 663, 664 (9th Dist. 1995). A stop is constitutionally valid provided the law enforcement officer has reasonable, articulable suspicion that criminal activity maybe afoot. *State v. Roberts*, 2d Dist, Montgomery No. 21221, 2006-Ohio-3042, ¶ 7; *Terry v. Ohio*, 392 U.S. 1, 30 (1968).

Reasonable suspicion is something less than probable cause. *Epling* at 664. [It] is

something more than an unparticularized suspicion or mere hunch, but less than the level of suspicion for probable cause. *Roberts* at ¶ 7, citing and *Terry* at 1. “Thus, ‘the likelihood of criminal activity need not rise to the level required for probable cause, and it falls considerably short of satisfying a preponderance of the evidence standard.’” *State v. Cunningham*, 9th Dist. Medina No. 14CA0032-M, 2015-Ohio-4306, ¶ 17, quoting *United States v Arvizu* 534 U.S. 266, 274 (2002). To satisfy that standard law enforcement officer must be able to point to specific and articulable facts which taken together with rational inferences from those facts, reasonably warrant that intrusion. *Terry* at 21.

The propriety of a traffic stop must be viewed in light of the totality of the circumstances. *State v Freeman*, 64 Ohio St.2d 291 (1980) Reasonable suspicion is based on the totality of the circumstances. *United States v. Cortez*, 449 U.S. 411, 417-418 (1981). The Court must consider “the totality of the circumstances as they were known to [the trooper] prior to the time [the trooper] stopped [the defendant], together with reasonable inferences that could be drawn from the circumstances. *State v Tidwell*, 165 Ohio St.3d 57, 2021-Ohio-2072, ¶ 21.

The Ninth District applied this well settled constitutional law on traffic stops and reasonably found that the Taylor-Billings operated a vehicle without headlights at night; a violation of R.C. 4513.03(A). Based on a totality of the circumstances, the Ninth District concluded that the trooper had an articulable reasonable suspicion of criminal activity or probable cause to stop Taylor-Billings for a traffic violation. *Taylor-Billings* at ¶ 21.

Taylor-Billings does not challenge any of the law that the appellate court applied. Rather, Taylor-Billings argues that the appellate court’s decision was based on a resolution of factual questions, and the trial court’s determination on the credibility of witness. He is not proposing a

new principle of law and is simply requesting this Court to perform error correction. This goes against this Court's mandate pursuant to the Ohio Constitution which does not include such limited controversies. See Ohio Constitution, Article IV, Section 2(B)(2)(e); *State v. Hairston*, 156 Ohio St.3d 363, 2019-Ohio-1622, ¶ 24 (Donnelly, J., concurring in judgment only) ("Because there is no new standard of law to be determined here, the most appropriate action would be to dismiss this appeal as having been improvidently accepted.")

In addition, Taylor-Billings reasserts the same argument he made in the lower court that he did not commit a traffic violation specifically when he toggled his headlights on and off at night. He attempts to support this argument with caselaw from the Eight District and Eleventh District about motorists flashing lights at night to indicate to other drivers to turn their lights on or some other form of communication. *City of Parma v. Odolecki*, 8th Dist. Cuyahoga No. 104160, 2017-Ohio-2979; *Elli v. City of Ellisville, Mo.*, 997 F. Supp. 2d 990. These cases are immaterial as they relate to the interpretation of local ordinances and the determination of a defendant's guilt under those ordinances. The traffic regulations in those cases are not involved in this matter, and those cases did not involve a reasonable suspicion analysis.

The implications of the Fourth Amendment and reasonable suspicion with respect to traffic stops is well-settled case law by this Court and the U.S. Supreme Court. This Court addressed the issue in *Dayton v. Erickson*, 76 Ohio St.3d 3, 11-12 (1996), holding that where an officer has an articulable reasonable suspicion or probable cause to stop a motorist for any criminal violation, including a minor traffic violation, the stop is constitutionally valid. It is also well-settled that "an officer need not be factually accurate in her belief that a traffic law has been violated, but instead need only produce facts establishing that she reasonably believed that a

violation had taken place.” *United States v. Delfin-Colina*, 464 F.3d 392, 398 (3d Cir.2006); see also *United States v. Fleetwood*, 235 Fed. App’x. 892, 895 (3d Cir.2007) (noting that reasonable suspicion analysis “is not particularly rigorous, as no traffic law need actually have been broken, nor does the stopping officer have to be correct regarding the facts”)

Besides disagreeing with the Ninth District’s conclusions, Taylor-Billings’ proposed issue for review fails to raise any substantial constitutional question and further fails to present a viable question of great general interest for review. As a court of last resort, the Supreme Court acts to clarify rules of law arising in courts of appeals that are matters of public or great general interest, not to serve as an additional court of appeals. *State v. Bartrum*, 121 Ohio St.3d 148, 2009-Ohio-355, 902 N.E.2d 961, P 31 (O'Donnell dissenting). Because Taylor-Billings merely seeks error correction, the State respectfully requests this Court decline jurisdiction of Taylor-Billings attempted appeal.

CONCLUSION

Based upon the foregoing reasons, it is respectfully submitted that the instant appeal does not present questions of such constitutional substance nor of such great public interest as would warrant further review by this Court. It is respectfully submitted that jurisdiction should be declined.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I served a true and accurate copy of the Memorandum in Response on John Kopasakis, Counsel for Appellant, by electronic mail on November 17, 2023, to the following e-mail address: kopasakissig@gmail.com.

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