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February 25, 2022

Honorable Chief Justice and Associate Justices
Supreme Court of New Jersey
25 Market Street
Trenton, New Jersey 08625

Re: A-32-21, *State v. Steven L. Bookman* (085775)
Appellate Division Docket No. A-1966-18

Honorable Chief Justice and Associate Justices:

Pursuant to *Rule* 2:6-2(b), kindly accept this letter brief on behalf of *amicus curiae* American Civil Liberties Union of New Jersey (ACLU-NJ).

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Preliminary Statement

The State seeks to string together exceptions to the warrant requirement to allow the warrantless search and arrest of a person in a private home where a person wanted for unpaid traffic fines fled into the home. Because police action under those circumstances was fundamentally unreasonable – and jeopardizes the privacy of all New Jerseyans in their homes – the fruits of the warrantless search must be suppressed.

The hot-pursuit exception to the warrant requirement, a subset of the exigent circumstances exception, allows law enforcement to enter private spaces without a warrant when they are in hot pursuit of a fleeing suspect. But, as with any exception to the warrant requirement, the exception must remain moored to its rationale. The hot-pursuit exception exists to protect officer safety and prevent the destruction of evidence. Where a warrantless entry serves neither interest, and where police have effectively created the exigency themselves, police must obtain a warrant. (Point I, A). This Court has never read the exception as broadly as the State and the Appellate Division did in this case – creating carte blanche for police to enter private homes in pursuit of people who flee the execution of arrest warrants, no matter how minor. (Point I, A, 1). As this Court has repeatedly recognized in recent years, police have arrests warrants for hundreds of thousands of people in this state; many of those warrants are very old, for very minor

offenses, or both. The impact of those warrants falls disproportionately on poorer New Jerseyans, particularly people of color. (Point I, A, II).

In this case, police faced no exigency: the eight officers on the scene could have secured the scene and waited for a search warrant. In the interstitial period, there was no risk to officer safety or that evidence would be destroyed. Given that reality, the Constitution demands that officers wait to obtain a search warrant. (Point I, B).

The failure to obtain a warrant to enter the home should end the Court's inquiry. But, in the event the Court believes the entry was proper, suppression is required for an independent reason: once inside the home, police exceeded the bounds of a permissible protective sweep. (Point II). Specifically, once police identified that Mr. Bookman was not the person they sought, they did not have the right to place him in handcuffs. (Point II, A). And, even if they were entitled to handcuff him to maintain the status quo while they continued to search for the person who fled execution of the warrant, they were not justified in frisking him – a search more invasive than necessary to conduct the protective sweep. (Point II, B).

To keep the hot-pursuit exception moored to its purposes and to avoid allowing protective sweeps to devolve into full-blown searches, the Court should reverse the order denying suppression.

Statement of Facts and Procedural History

Amicus ACLU-NJ accepts the statement of facts and procedural history contained in Mr. Bookman's Appellate Division brief. After the Appellate Division affirmed his conviction (save for a remand on a *Batson/Gilmore* issue), *State v. Bookman*, No. A-1966-18 (App. Div. May 4, 2021) (slip op. at 2-3), Mr. Bookman sought certification, which this Court granted, limited to the search and seizure issue.

Argument

I. The hot-pursuit exception to the Constitution's warrant requirement did not permit police to enter third party's home. [1]

The Appellate Division held that "the State Police officers were justified in pursuing Bell into the private residence." *Bookman*, slip op. at 12. The panel relied on *State v. Jones*, 143 N.J. 4 (1995) to support that conclusion, but improperly read *Jones* as creating a per se rule allowing entry into private homes when a person named in a warrant flees.

As explained below, *amicus* contends that the Constitution forbids entry into the home based on the facts found by the trial court. But as a threshold matter, it is not clear that those findings are entitled to deference as the State suggests. SBr 17-

[1] SBr refers to the State's Appellate Division brief;
"2T" refers to pretrial proceedings on May 14, 2018.
"3T" refers to pretrial proceedings on June 19, 2018.

19. Because cold records are ill suited for making factual determinations, as a general rule, appellate courts must defer to the factual findings made by trial judges, who are in a better position to evaluate witnesses' credibility. *State v. Elders*, 192 N.J. 224, 244 (2007). But, here, the motion judge was prevented from learning critical information that would have impacted the credibility determination. A key credibility dispute turned on whether Detective Steinmetz had seen Mr. Bell run into the home located at 1235 Thurman Street or the one located at 1237 Thurman Street. The court credited the testimony of the officer who said he saw Mr. Bell enter 1237 Thurman. 3T 44-2 to 45-3. The court found Mr. Bell incredible because it did not believe he could have run into the front door and out of the back door. *Id.* at 40:2-9.

But, unbeknownst to the motion court, there existed evidence that the back door of 1235 was open and unsecured. That piece of evidence, which supports Mr. Bell's version and undermines Detective Steinmetz's, was withheld from the court because the State failed to honor its obligation to timely turn over discovery. *R.* 3:13-3(b); *Brady v. Maryland*, 373 U.S. 83, 87 (1963). Having deprived the motion court of a necessary tool to evaluate credibility, the State cannot seek shelter in the general rule of deference to lower court's factual findings. The trial court should have reopened the motion to suppress hearing; if the Court does not agree that, under the facts found by the motion court, the entry and frisk were impermissible,

the Court should remand. On remand, the motion court should determine whether, considering the belatedly produced police report, the court still finds the detective credible and Mr. Bell incredible. The Court need not remand should the Court accept the arguments below.

A. The hot-pursuit exception does not provide a blanket justification for police to enter private homes to execute arrest warrants on people who have fled.

In *Jones*, police observed Mr. Jones and Lonzie Collier; officers knew there was an open warrant for Mr. Collier's arrest. *Id.* at 8. When officers approached the men, they fled into an apartment building. *Id.* at 8-9. Officers followed and, in an apartment, found the men and contraband linking them to a burglary. *Id.* at 9. Although the officers did not know at the time, it turned out that the warrant was from municipal court, for failure to appear. *Id.* at 8. Although then-Judge Long and her Appellate Division panel had been troubled by the minor nature of the underlying warrant and ordered the evidence suppressed, *id.* at 16, the Supreme Court reversed. *Id.* at 12. The Court held that "[t]he valid arrest warrant provided a 'limited authority to enter a dwelling' in which Collier lived when there was reasonable grounds to believe he was there." *Id.* at 15 (quoting *Payton v. New York*, 445 U.S. 573, 602-03 (1980)).

1. This Court never created a blanket hot-pursuit exception for low-level offenses.

Although the *Jones* Court approved the hot-pursuit entry into a home, it did not create a per se rule. Instead, it reaffirmed that "[t]he main test always remains whether the law enforcement officer has acted in an objectively reasonable manner." *Id.* at 19-20. The Court evaluated the case "[u]nder the totality of the circumstances" and found "the police officers acted in an objectively reasonable manner" under the State and Federal Constitutions. *Id.* at 20. Indeed, the Court predicted that in the wake of the opinion, "there [would not] be a flood of police routinely entering residences by force to effectuate arrest warrants for minor matters." *Id.* at 19. That is because the opinion did not authorize entry under all circumstances.

Exceptions to Article I, paragraph 7's warrant requirement must remain "[]tethered [to their] initial moorings." *State v. Vargas*, 213 N.J. 301, 314 (2013). "Because the 'hot pursuit' doctrine is a subset of the exigent-circumstances exception to the warrant requirement, the touchstones that would justify a warrantless entry remain the possible destruction of evidence . . . and the threat of violence by the suspect." *State in Int. of J.A.*, 233 N.J. 432, 449 (2018) (internal citations omitted). Law enforcement cannot merely invoke "hot pursuit" without also explaining why the entry was required by either a fear of destruction of evidence or the threat of violence. The need to connect a

hot-pursuit entry to the rationales for the exception is particularly acute when officers enter a private home. After all, "physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed." *State v. Cassidy*, 179 N.J. 150, 160 (2004) (quoting *State v. Hutchins*, 116 N.J. 457, 463 (1989)).

Recently, the United States Supreme Court reaffirmed the need to tie hot-pursuit justifications to the purposes of the exigent circumstances doctrine when it considered whether flight alone justified warrantless entry into a home to arrest a person suspected of a misdemeanor. The Court rejected the suggestion that it should create a categorical rule and instead insisted that there must also be "a need for police to act swiftly." *Lange v. California*, 141 S. Ct. 2011, 2021 (2021). Justice Kavanaugh explained some of those instances: when there exists a risk of "escape, destruction of evidence, or harm to others." *Id.* at 2025 (Kavanaugh, J., concurring). As explained below (Point I, B), because none of those concerns were present here, the State cannot justify the entry under the circumstances of this case.

2. Allowing warrants for low-level offenses to justify hot-pursuit entries would have a disproportionate impact on communities of color.

The Court has recognized that there exist hundreds of thousands of active bench warrants and that many of them are connected to either failure to pay or

failure to appear for low-level offenses. *See* Press Release, New Jersey Courts, Supreme Court Dismisses Old Municipal Court Warrants in Minor Matters (Jan. 17, 2019), https://www.njcourts.gov/pressrel/2019/pr011719a.pdf (noting dismissal of more than 700,000 old, low-level warrants). Indeed, the Supreme Court Committee on Municipal Court Operations, Fines, and Fees expressed its "concern[] about the excessive use of bench warrants and license suspensions as collection mechanisms." *Report of the Supreme Court Committee on Municipal Court Operations, Fines, and Fees* 2 (2018), https://www.njcourts. gov/courts/assets/ supreme/reports/2018/sccmcoreport_wapp.pdf. The concern was well founded; at the time of the Report, "[t]here [we]re 2.5 million outstanding municipal court bench warrants for failure to appear and failure to pay. These warrants often involve[d] minor offenses and minimal amounts." *Id.* The Committee determined that "these bench warrants to collect financial obligations . . . have little or no connection to the fair administration of justice." *Id.* at 21.

New Jersey is no outlier in this regard. The Department of Justice, Civil Rights Division's Investigation of the Ferguson Police Department exposed a police department and municipal court system that abusively relied upon warrants as a means of revenue collection. United States Department of Justice Civil Rights Division, *Investigation of the Ferguson Police Department* 3-4 (March 4, 2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/

04/ferguson_police_department_report.pdf. For example, "in 2013 alone, the court issued over 9,000 warrants on cases stemming in large part from minor violations such as parking infractions, traffic tickets, or housing code violations." *Id.* at 3. Although "[j]ail time would be considered far too harsh a penalty for the great majority of th[o]se code violations . . . Ferguson's municipal court routinely issue[d] warrants for people to be arrested and incarcerated for failing to timely pay related fines and fees." *Id*.

The burden of these practices did not fall on all residents equally. "They impose[d] a particular hardship upon Ferguson's most vulnerable residents, especially upon those living in or near poverty. Minor offenses can generate crippling debts, result in jail time because of an inability to pay, and result in the loss of a driver's license, employment, or housing." *Id.* at 4. In Ferguson, Black people bore the brunt of this: Black people were more likely to have warrants issued against them and were more likely to be arrested for outstanding warrants. *Id.* at 65.

Although New Jersey data on warrants is less robust, there is no reason to expect that the disproportionality found in Ferguson is significantly less prevalent here. For example, looking at State Police arrests during the first half of 2016, 75 people were arrested based on the existence of a warrant alone (that is, without independent probable cause): 37 of them were Black and 10 were identified as

Hispanic. Office of Law Enforcement Professional Standards, *Fourteenth Oversight Report January 1, 2016 – June 30, 2016* 123 (Feb. 2019),https://www.nj.gov/lps/oleps/pdfs/OLEPS-2019-Fourteenth-Oversight-Report.pdf. In the following year, there were 82 arrests based on warrants alone: 46 people were Black, eight were Hispanic and one was Asian. Office of Law Enforcement Professional Standards, *Fifteenth Oversight Report July 1, 2016 – December 31, 2016* 26 (May 2020), https://www.nj.gov/oag/oleps/pdfs/OLEPS-2020-Fifteenth-Oversight-Report.pdf. Both reports demonstrate that people of color are arrested on warrants at rates far greater than one would expect based on New Jersey demographics. Any rule of law that treats all arrests warrants as an invitation for unchecked police discretion (here, to enter a private home in hot pursuit) will disproportionately burden people of color.

B. Under the circumstances presented, police were not facing an exigency and therefore were not permitted to enter the home without a search warrant.

Police arrived on Thurman Street hoping to arrest Mr. Bell based on their suspicion that he was involved in a vehicle theft ring and earlier in the day possessed drugs. 2T 7:19-22. The officers acknowledged that they did not have a warrant to arrest him for either of those suspicions. *Id.* at 11:25-12:9. Instead, they sought to arrest him on a warrant from the Automated Traffic System ("ATS"). *Id.*

Although the officers did not know the exact nature of the arrest warrant, no one disputes that the warrant derived from the ATS system. *Id.*; *see also* 2T 20:25; 2T 42:4-8.

On these facts, the State contends that "it would have been '[i]mpractical for the officers to retreat as such action would [have] created the potential that [Bell], knowing the police were present, might attempt an armed escape, thus endangering other persons either in or outside the building.'" Sbr 22-23 (quoting *State v. Laboo*, 396 N.J. Super. 97, 108 (App. Div. 2007) (alterations in State's brief)). But the facts of *Laboo* could not differ more from the situation the officers faced here: In *Laboo*, officers were pursuing three suspects who had committed a series of armed robberies in which two of them had been armed with handguns. 396 N.J. Super. at 100. Here, the arrest warrant was for a traffic offense. In *Laboo*, officers did not identify the suspects' exact location in a multifamily house until they were in a crowded hallway, at which time the suspects knew the officers were there and the officers feared the suspect might have a hostage. *Id.* at 101. Here, according to the testimony the court credited, some of the eight officers saw Mr. Bell enter 1237 Thurman Street. The record contains no evidence to suggest that the officers could not have safeguarded the premises while they sought to obtain a warrant.

The likelihood of a person attempting an "armed escape" is far greater where the person and his compatriots committed an armed robbery just 30 hours earlier

than here, where the warrant was for a traffic offense. Although "every arrest, regardless of the nature of the offense," could "present a risk of danger to an officer," *State v. Bruzzese*, 94 N.J. 210, 233 (1983), courts need not pretend that an arrest for armed robbery poses the same risk as one for a traffic offense.[2] In short, unlike in *Laboo*, in this case officers could have waited to enter the house until they obtained a warrant without jeopardizing their own safety or the safety of any third party.

The facts of this case also do not support the other rationale for the hot-pursuit exception to the warrant requirement, preventing the destruction of evidence. *United States v. Santana*, 427 U.S. 38, 43 (1976). In *J.A.*, the Court held that the risk of destruction of a recently-stolen cellphone was too remote to justify a hot-pursuit entry. *J.A.*, 233 N.J. at 451 (explaining that "the State has not shown that the officers had any reason to believe that defendant would (or could effectively) destroy the phone."). Here, too, there exists no evidence that Mr. Bell

[2] For that reason, the Court's determination in *Jones* that it would be unreasonable to "require police officers to distinguish between arrest warrants issued for minor and serious offenses" 143 N.J. at 17 is troubling. Certainly officers can identify the *court* that issued the warrant and recognize that Superior Court matters, as a general rule, are more serious than municipal courts ones. Officers should not need to delve into the specifics of a warrant before effectuating an arrest. But treating a warrant for a murder suspect the same as the warrant for a jaywalker does not advance officer safety interests. Drawing distinctions between courts does not require officers to engage in research before effectuating an arrest, but does allow differentiation between categorically serious offenses and those that carry lesser penalties.

would have – or could have – destroyed the evidence the officers sought. Stolen ATVs, even more than the phone in *J.A.*, "cannot be easily flushed down a drain or destroyed by burning." *Id.* There existed no "evidence" associated with Mr. Bell's traffic warrant. And, to the extent there was evidence of his possession of cocaine earlier in the day, the State presented no evidence that Mr. Bell either still possessed it or was inclined to dispose of it.

The State failed to justify its hot-pursuit entry based on a risk of either the safety of officers or others or the destruction of evidence. Thus, the entry into 1237 Thurman Street was not justified by the hot-pursuit exception to the warrant requirement. [3]

II. The protective sweep doctrine provides limits on law enforcement behavior once inside of the home.

The improper entry into the home should resolve the case. But, should the Court determine that the entry was appropriate, there exists an independent reason that suppression must be ordered. Once inside the 1237, officers exceeded the scope of a permissible protective sweep, rendering the subsequent searches and seizures unconstitutional.

[3] Yet another concern is that, unlike in *Jones*, where officers pursued the suspects into Collier's home, here officers knew that Mr. Bell had fled into a home in which he did not live. The ability to execute arrest warrants in private homes requires both a knowledge that the target lives there and is likely home. *Payton*, 445 U.S. at 602-03. Officer knew that was not the case here.

In an effort to balance "[i]ndividual privacy rights . . . in the home" against "the practical and safety concerns of law enforcement" the New Jersey Supreme Court has recognized a "protective sweep doctrine." *State v. Bryant*, 227 N.J. 60, 64–65 (2016). The United State Supreme Court first recognized the protective sweep doctrine in *Maryland v. Buie*, 494 U.S. 325, 327 (1990). In that case, which addressed an arrest in a home, the Court found that protective sweeps were permissible means of addressing officer safety, where the sweep is "narrowly confined to a cursory visual inspection of those places in which a person might be hiding." *Id.*

This Court "extended the protective sweep doctrine to non-arrest settings" in *State v. Davila*, 203 N.J. 97, 125–26 (2010). *Bryant*, 227 N.J. at 70. But the Court also has mandated that law enforcement "adhere to . . . rigorous standards" to invoke the doctrine. *Id.* at 65. The rigorous standards established by the Court require the State to establish that law enforcement has a valid basis to enter the private space and that "the officers on the scene have a reasonable [and] articulable suspicion that the area to be swept harbors an individual posing a danger." *Id.* (*quoting Davila*, 203 N.J. at 125). "The test is conjunctive; the failure of either element is fatal to the application of the exception." *Id.* Critically, the officer must "believe not only that another individual is present, but also that the other individual presents a danger to officer safety." *Id.* at 71. As discussed above (Point

I, *supra*), the officers did not have a valid basis to enter the home; but even if they had, their continued search of Mr. Bookman *after* it was clear that he did not pose a danger to officers exceeded the bounds of the protective sweep doctrine.[4]

A. Police were not entitled to place Mr. Bookman in handcuffs.

The reason police entered the home in the first place must bear on the permissible scope of a protective sweep. Here, police were searching for Mr. Bell to arrest him on an open traffic warrant and immediately knew that Mr. Bookman was not the person they sought. Police did, certainly, have a reasonable belief that there was another person in the house – after all, they saw Mr. Bookman laying on the ground – but they did not have a reasonable belief that he posed a danger to the officers. *Bryant*, 227 N.J. at 65.

The Appellate Division held that because Mr. Bookman "fled from the approaching officers along with Bell, who police had observed engaging in drug distribution activity earlier that evening" "the officers [had a reason] to suspect that defendant and Bell were acting in concert and that defendant was linked to Bell's

[4] The Appellate Division held that "officers were not conducting a protective sweep pursuant to the doctrine announced in *Maryland v. Buie*, 494 U.S. 325, 327 (1990)" but merely conducting a "brief[] det[ention]. . . under the *Terry* doctrine." *Bookman*, slip op. at 12. If that were the case, officers would not need reasonable suspicion that Mr. Bookman posed a danger, but would still need reasonable articulable suspicion that he was involved in criminal activity. Although the Appellate Division suggestion that *Terry* governs this detention – in a private home – rests on a shaky constitutional foundation, the State cannot satisfy either standard.

observed criminal activity." *Bookman*, slip op. at 14. But, the officer who handcuffed Mr. Bookman had not seen him flee into the house, 2T 46:17-20 (Det. Sgt. DeVirgilis confirming that he "didn't personally see anyone standing out front"), and even if he had, that would not constitute reasonable suspicion that he posed a danger. The State's theory is that Mr. Bell's outstanding traffic warrant, not his alleged participation in a drug transaction earlier in the day, justified entry into the home. Even if the officer had seen the men flee together, it is hard to understand how a person could act in concert regarding the activity contained in the warrant.

Detective Sergeant DeVirgilis testified that when he entered 1237 Thurman Street, he went up the stairs. 2T43:13-14. When he entered the room, he "could see a [B]lack male proned out on the floor of the bedroom." *Id.* at 43:20-21. That man was Mr. Bookman; he was laying on his chest "with his arms stretched out" and his legs together so that he "looked like a cross." *Id.* at 47:8-13. He knew that Mr. Bookman was not Mr. Bell, the target of the warrant. *Id.* at 48:10-11.

Although Det. Sgt. DeVirgilis originally described being "proned out" as a "safety position" *id.* at 47:9, he later clarified that it was only a "temporary safety position." *Id.* at 48:1. The officer conceded that he was on the ground in "a non-threatening temporary safety position" *id.* at 48:4-5, but suggested that because Mr. Bookman was not secured, he "could jump up" at any time. *Id.* at 47:22. The

Appellate Division held that Mr. Bookman's flight, coupled with the "unusual position on the floor he assumed in anticipation of the police encounter," provided the reasonable and articulable suspicion required to detain him. *Bookman*, slip op. at 13.

The Appellate Division's conclusion – that lying face down on the floor with one's hands outstretched creates reasonable suspicion – is counter to New Jersey search and seizure jurisprudence and common-sense notions of self-preservation. Our courts have long recognized that people run from the police for a variety of reasons. This Court has acknowledged that fear of apprehension for criminal misconduct is not the only "explanation of why a young man in a contemporary urban setting might run at the sight of the police." *State v. Tucker*, 136 N.J. 158, 169 (1994). The Appellate Division acknowledged that flight alone cannot provide reasonable, articulable suspicion (*Bookman*, slip op. at 14 (citing *Tucker*, 136 N.J. at 169)) but suggested that Mr. Bookman's "submissive position" on the ground justified the intrusion. *Id.* at 5.

But far from suspicious, Mr. Bookman may have recognized that police chases are inherently dangerous and create the "danger of escalating violence." *State v. Crawley*, 187 N.J. 440, 457 (2006). If a person's flight doesn't create reasonable suspicion, but being "proned out" after flight does, one is left to wonder what position Mr. Bookman could have been in that would not have created

suspicion? If a person displaying their hands in a submissive position subjects himself to a search, who does not? The idea that a person acts suspiciously when they take a position that seeks to avoid police violence without having been directly asked ignores the reality that too many New Jerseyans, particularly people of color, have lived experience with that sort of violence. *See Utah v. Strieff*, 579 U.S. 232, 254 (2016) (Sotomayor, J., dissenting) (explaining that "[f]or generations, black and brown parents have given their children 'the talk'—instructing them never to run down the street; always keep your hands where they can be seen; do not even think of talking back to a stranger—all out of fear of how an officer with a gun will react to them."). Direct action to avoid all-too-familiar harm cannot create suspicion to justify a search.

It may be that in the "chaotic events" surrounding the "search of the premises for Bell[,]" *Bookman*, slip op. at 13-14, officers were entitled keep an eye on Mr. Bookman while they searched for Mr. Bell, but in order to handcuff him, they needed reasonable suspicion.

B. Police were not entitled to frisk Mr. Bookman.

"[W]hether there is good cause for an officer to make a protective search incident to an investigatory stop [(a frisk)] is a question separate from whether it was permissible to stop the suspect in the first place." *State v. Thomas*, 110 N.J. 673, 678–79 (1988). Even if the officer could articulate reasonable suspicion that

Mr. Bookman engaged in *any* criminal behavior in concert with Mr. Bell, a frisk requires an officer to have "reason to believe that [they are] dealing with an armed and dangerous individual[.]" *Terry v. Ohio*, 392 U.S. 1, 27 (1968). Although the officer "need not be absolutely certain that the individual is armed[,] . . . a reasonably prudent [person] in the circumstances [must] be warranted in the belief that [their] safety or that of others was in danger." *Id.*

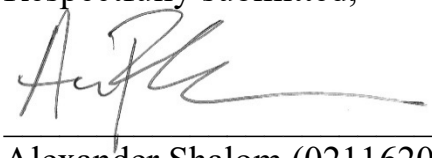
The question is not simply whether officers *ever* had reason to believe that Mr. Bookman posed a risk to their safety; instead, the Court must ask whether, *once he was handcuffed*, officers still had a reason to fear for their safety. The officers, of course, guessed right: Mr. Bookman had a gun. But that is never the touchstone of Article I, paragraph 7. Courts must ask whether the information the officers had before conducting the search would lead a reasonably prudent person to believe Mr. Bookman was armed and dangerous. Although at some point he acknowledged that he possessed a knife – the nature or legality of which the record does not reveal – the State never explained why that makes it more likely that he possessed another weapon. The officer contended that his "cigarettes, [] lighter[,] and keys" "could be considered weapons," 2T 44:25-45:1, but that conclusion has no support in reason and would render all New Jerseyans, for whom keys are ubiquitous, subject to frisks. The officer lacked reasonable suspicion that Mr.

Bookman was armed or, especially once he had been placed in handcuffs, dangerous.

Conclusion

Because officers faced no exigency that required entry into the home, the evidence should be suppressed; but even were that not true, the handcuffing and frisking of Mr. Bookman provides an independent basis for suppression.

Respectfully submitted,



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