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March 3, 2022

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

Re: State of New Jersey v. David L. Smith (085635)
Appellate Division Docket No. A-1937-19

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 issue returning to this Court for consideration involves the incorrect use of statutory authority to justify and validate certain pretextual stops. Of particular concern in the instant matter are stops based on the use of tinted windows in a rear windshield—a prohibition that does not exist in New Jersey statutes or administrative code. Despite this reality, tinted windows have become a useful tool for justifying arbitrary stops and searches, actions that invade and adulterate every New Jerseyan’s right to privacy and right to be free from unreasonable searches. This Court should halt any further effort to undermine the protections of the Fourth Amendment and Article I, Paragraph 7 of the New Jersey Constitution by requiring law enforcement to have correct and complete knowledge of the motor vehicle laws; here, specifically, those laws pertaining to tinted windows.

In this brief, the American Civil Liberties Union of New Jersey (“*amicus*”) discusses the illogical basis of pretextual stops based on tinted windows when the use of tinted windows in rear windshields is not illegal under New Jersey law and not preempted by federal law. (Point I). *Amicus* also asks the Court to resolve the lower court split with regard to the legality of such stops. *Amicus* also notes how the use of pretextual stops generally cause harm, in greatly varying degrees, to both law enforcement and to Black and Brown communities across the state. (Point II). This is particularly true here where no legal basis exists for the pretextual stop.

This Court should overrule the holding in *State v. Cohen*, find that stops based on tinted windows in rear windshields are unjustified, clarify and interpret how and when tint in front windshield, driver and passenger-side windows are allowed, and find that the use of tinted windows as an unlimited pretext for traffic stops cannot constitute anything other than an unreasonable seizure.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Amicus accepts and incorporates the statement of facts and procedural history contained within Defendant-Petitioner's Appellate Division brief. In an unpublished opinion, the Appellate Division affirmed the legality of the warrantless search, the denial of Mr. Smith's motion to suppress the seized evidence, and Mr. Smith's conviction. *State v. Smith*, No. A-1937-19, (App. Div. Apr. 6, 2021) (slip op. at 1). This Court granted Defendant-Petitioner's Petition for Certification on December 8, 2021. *State v. Smith*, 248 N.J. 386 (2021). On the State's motion, the trial court vacated and dismissed the indictment. In a February 14, 2022, sua sponte order, this Court retained jurisdiction over the matter. This brief accompanies a Motion for Leave to Participate as *Amicus Curiae*. R. 1:13-9(e).

ARGUMENT

I. **Detective Doggett's stop was objectively unreasonable and pretextual.**

The statutes and Administrative Code regulating the use of tinted windows in New Jersey are clear: the ultimate purpose is to keep the front and side vision of a driver unobstructed. This goal, as laid out in the statutory and code provisions, is neither ambiguous nor vague; rear tinted windows are not violative of public safety, motor vehicle or traffic laws, and front tinted windows that do not obscure vision are similarly benign.

Detective Doggett's stop of Mr. Smith's car based on rear tinted windows had no basis in law. Doggett's subsequent search of Mr. Smith's car after the stop thus violated the protections of the Fourth Amendment of the United States Constitution and Article I, Paragraph 7 of the New Jersey Constitution and Mr. Smith's conviction was rightly vacated. The Court should find that stops based on tinted rear windows or transparent tinted windows that do not obscure the driver's vision cannot serve as a legitimate basis for a motor vehicle stop. Further, this Court should overrule *State v. Cohen*, 347 N.J. Super. 375 (App. Div. 2002) to ensure that stops premised on tinted window violations are proscribed and narrowly construed pursuant to actual statutory mandates and extant directives of the Administrative Code and are not allowed to serve as the illegitimate basis for unconstitutional, pretextual, stops.

A. Window tinting is permitted in New Jersey except in clearly prescribed circumstances and this Court should conclusively resolve the split between the lower courts finding otherwise.

Citing *State v. Cohen*, and *State v. Mandel*, 455 N.J. Super. 109 (App. Div. 2018),¹ in support of its assertion, the State previously argued that all motor vehicle stops based on tinted windows are valid. (SBr at 11-12).² They are not. The state of the caselaw, however, unmoored from the legal reality of the statutory and code instruction, supports this erroneous assertion given that the lower courts have ruled on this issue in contradictory ways that demand this Court's clarification and resolution.

The actual statutes and code offer sharp instruction: tinted windows are wholly legal if used on rear passenger windows and legal in limited circumstances on windshields and front windows where they do not obscure driver vision.³

¹ It should be noted that *Mandel* was not concerned with the central question here, whether a stop based on tinted windows was constitutional. While the initial stop was based on tinted windows, the analysis in the case was concerned about the propriety of evidence suppression based on whether the officer's head crossing through the driver's side window to detect the smell of marijuana constituted an unconstitutional search.

² SBr refers to the State's Appellate Division brief; 1T refers to the transcript of the July 26, 2019, Suppression Hearing.

³ In its Appellate Division brief, the State cites, "in pertinent part," to N.J.A.C. 13:20-33-7(d) which explicitly interdicts "any . . . tinted spray or plastic material added to previously approved glazing in the *front windshield or windows*." (SBr at 12) (emphasis added). The State conspicuously elides, however, pertinent information laid out in that same subsection: first, that dispensation is available for

See N.J.S.A. 39:3-74 (“No person shall drive any motor vehicle with any . . . non-transparent material upon the front windshield, wings, deflectors, side shields, corner lights adjoining windshield or front side windows . . . so constructed, equipped or loaded as to unduly interfere with the driver’s vision to the front and to the sides.”); N.J.S.A. 39:3-75 (“No person shall drive any motor vehicle equipped with safety glazing material which causes undue or unsafe distortion of visibility or equipped with unduly fractured, discolored or deteriorated safety glazing material . . .”); N.J.A.C. 13:20-33.7(g) (“Any motor vehicle may have the rear window and/or side windows to the rear of the driver tinted or covered in some manner so as to partially obscure the driver’s vision . . .”) (emphasis added).

Given the clarity of the statutes and code here, the bases for *Cohen*’s holding are inapplicable, fail on the facts and the law, and for several reasons should be overruled. First, as a justification for tinted window stops by law enforcement, *Cohen* adopted the finding in *State v. Oberlton*, 262 N.J. Super. 204 (Law. Div. 1992), holding that federal regulations governing tinted windows preempt

tinted front windows or windshields for medical reasons, and second, that front windows may be tinted “if such [tinted] spray or [plastic] material extends no lower than six inches from the top of the front windshield,” distinct but interrelated exceptions. N.J.A.C. 13:20-33-7(d). Simply put, no form of tinted window in New Jersey is unequivocally barred; rather, the statutory and code directives carry varying levels of allowances for tinted window use. This reality underscores the unreasonableness of a traffic stop based solely on the mere existence of a tinted window without any further articulated or articulable violation.

conflicting state motor vehicle regulations under 15 U.S.C.A. § 1392(d). As a preliminary matter, that regulation was repealed and replaced by 49 U.S.C. § 30103(b) in 1994, two years after the *Oberlton* decision. The current federal regulation states:

When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

[49 U.S.C.A. § 30103(b)(1).]

New Jersey law is not preempted by federal law. In addition, however, the tinted window standard provided by the federal regulation is as follows:

Coloring or tinting of windshields and the windows to the immediate right and left of the driver is allowed, provided the parallel luminous transmittance through the colored or tinted glazing is not less than 70 percent of the light at normal incidence in those portions of the windshield or windows which are marked as having a parallel luminous transmittance of not less than 70 percent. *The transmittance restriction does not apply to other windows on the commercial motor vehicle.*

[49 C.F.R. § 393.60(d) (emphasis added).]

Accordingly, New Jersey's tinted window regulations and standards are *stricter* than the federal ones as they allow less area for tinting on the windshield, driver's- and passenger-side windows⁴, unlike the federal regulation which allows the entirety of the windshield and side windows to be tinted, so long as the tinting allows 70% of light to permeate. *C.f.* N.J.A.C. 13:20-33.7 ("no lower than six inches from the top of the front windshield . . ."). Accordingly, should preemption principles apply, New Jersey's own regulations for use are the only applicable standards from which a motor vehicle violation may be interpreted.

Second, factually speaking, in *Cohen*, the driver- and passenger-side windows were fully tinted black, preventing the officer from seeing inside the car altogether and distorting driver vision, a fact the driver himself acknowledged in stating that "[the]windows were illegal." *Cohen*, 347 N.J. Super. at 377. These facts sit squarely within the sole explicit prohibition laid out in the applicable

⁴ *Amicus* does not mean to imply that the regulations for windshield and front driver's- and passenger side windows are crystal clear. To the contrary, the statute governing front windows uses vague language that could (and clearly has been) used to subject motorists to pretextual abuses. *See* N.J.S.A. 39:3-75 ("No person shall drive any motor vehicle equipped with safety glazing material which causes undue or unsafe distortion of visibility or equipped with unduly fractured, discolored, or deteriorated safety glazing material . . .") Indeed, the statute fails to define how much "glazing distortion" is undue? How much is unsafe? How are these things determined by officers during a stop and what training did they receive to do so? While some dispensation is carved out for these front tinted windows, as discussed above, this Court should also interpret, define, and place some quantifiable limits onto this cloudy—and thus easily manipulated—language.

statute. *See* N.J.S.A. 39:3-74 (“No person shall drive any vehicle so constructed, equipped or loaded as to unduly interfere with the driver’s vision to the front and to the sides.”) That was not the case here.

According to Detective Doggett’s testimony, Mr. Smith’s car was “directly” in front of officers when they first became aware of it; the entirety of the officers’ view of tinted windows was from behind, not from the passenger-, driver-side, or front of the car. (1T at 8-7 to 8-8; 31:6-31:8). As Detective Doggett testified:

[Defense] Q: So when you first see the silver Ford Taurus you see it sitting at the light making a left on to South Olden Avenue, correct?

[Doggett] A: It was stopped at the red light with the left turn signal on.

Q: Okay. And at that point you notice that it has you say tinted windows?

A: Yes.

Q: Okay. You can see the *rear* window?

A: I can.

Q: Okay. And you said you’re – you can’t estimate the distance, but you’re close enough that you can tell *this back window is tinted*?

A: Yes.

Q: Was it at that point the decision was made that you were going to stop and issue a ticket?

A: Yes.

[1T 39:10-40:1 (emphasis added).]

The stop was thus premised solely on Doggett's view of Mr. Smith's legally tinted rear windows.

Third, the *Cohen* court's assertion that "it matters not whether the equipment used violates N.J.S.A. 39:3-74, because the fact that a defendant is later found not guilty does not denigrate the propriety of the initial stop so long as it is based upon a reasonable articulable suspicion that a motor vehicle violation has occurred," also must fail. *Cohen*, 347 N.J. Super at 380. This Court has rejected this analysis. "The key issue under New Jersey's Constitution . . . is not whether an officer reasonably erred about the meaning of a law. It is whether a person's rights have been violated." *State v. Carter*, 247 N.J. 488, 530 (2021). As discussed in Point II *infra*, if use of equipment does not violate any law, police cannot articulate any reasonable suspicion based on its use. "Absent testimony that the officer stopping the motor vehicle reasonably believed there was a violation of statute and not merely an observation of 'tinted' material on the motor vehicle . . . the stop in question was merely a pretext for the officer to stop all motor vehicles so outfitted . . . there must be an objective belief that the statute or code has been violated." *State ex rel. R.M.*, 343 N.J. Super. 153, 160 (Ch. Div. 2001), *overruled by Cohen*, 347 N.J. Super. at 375. Detective Doggett could not articulate any basis for the stop other than the mere existence of tinted windows in the rear window of

the car; accordingly, the officer freely admitted that his stop was based on an offense that was not, in fact, a violation of the law. 1T 39:10-40:1.

Cohen's holding misinterprets New Jersey code and statute, undermines recent New Jersey Supreme Court jurisprudence, and should be overruled.

B. The State did not, and cannot, carry its burden to demonstrate the reasonableness of the stop of Mr. Smith's vehicle.

Putting to one side the mischaracterization of tinted windows as unreservedly illegal, law enforcement did not and cannot articulate reasonable suspicion sufficient to justify the stop of Mr. Smith's car.

As has long been established by the United States Supreme Court and this Court, a stop of an automobile for a traffic violation, even if only for a limited purpose, "constitutes a 'seizure' of 'persons' within the meaning of [the Fourth Amendment]." *Whren v. United States*, 517 U.S. 806, 809–810 (1996); *see also State v. Scriven*, 226 N.J. 20, 34-35 (2016); *State v. Sloane*, 193 N.J. 423, 430 (2008). Pretextual stops, like the one at issue here, enable authorities to detain suspects for investigation of other matters on the basis of minor traffic violations and are only considered valid where the initiating stop itself is "objectively reasonable." *State v. Gonzales*, 227 N.J. 77, 104 (2016). Objective reasonableness demands that a police officer have an articulable and reasonable suspicion for conducting a search or seizure. *State v. Locurto*, 157 N.J. 463, 470 (1999); *Scriven*, 226 N.J. at 33-34. The State cannot articulate any reasonable suspicion here.

The entirety of Doggett’s articulation around the stop was that “the vehicle had tinted windows.” 1T at 9:8. Seizures rooted in “raw, inchoate suspicion grounded in speculation cannot be the basis for a valid stop.” *Scriven*, 226 N.J. at 34. The premise, therefore, for Doggett’s stop was the statement of an innocuous fact, not an articulation of illegality. As the trial court explained in *R.M.*:

To allow all motor vehicles to be stopped for having ‘tinted’ materials on the windshield absent any showing of a belief of articulable or reasonable suspicion that said material violates a statute or code would be akin to stopping all motor vehicles for routine license and registration checks . . . there must be something more than the mere observation of tinted’ material to justify the subjective decision of a police officer to randomly stop all such motor vehicles for ticketing.

[*R.M.*, 343 N.J. Super. at 160.]

Officers presented no such justification here, and, thus, even if Mr. Smith’s car was in violation of the statute, which it was not, there was no articulated suspicion sufficient to excuse the pretextual nature of the contact.

C. Even if the stop was a reasonable mistake-of-law, which it was not, the *Heine* exception is inapplicable in New Jersey.

With regard to rear tinted windows, legislators have crafted clear statutory provisions governing their legal use. Neither the statutes nor the Administrative Code governing rear tinted windows are unconstitutionally vague or overbroad. Tinted windows are not only not prohibited, but expressly allowed with certain

limitations; the law does not extend too far, but descriptively and narrowly permits. There is no reasonable mistake-of-law here.

Even if such mistake were to exist, this Court has declined to adopt a reasonable mistake of law exception under the New Jersey Constitution. *Carter*, 247 N.J. at 531. As this Court held, “the reasonable nature of an officer’s mistake cannot transform an officer’s error into reasonable suspicion that a crime has been committed.” *Id.* Mr. Smith was stopped for legal behavior, a liberty violation of the most dangerous order. It is simply not reasonable “for the police to stop someone for violating a hypothetical law or a law that was never enacted . . . [or] to restrict a person’s liberty or invade their privacy for behavior that no statute condemns.” *Id.*

II. Pretextual stops are a perversion of law enforcement and should be firmly disavowed.

Stops based on tinted windows should be explicitly called what they are: pretextual stops. As has been regularly argued and raised by *amicus* before this Court, pretextual stops cause all New Jerseyans to “suffer real harm,” but, in particular, they continue to unravel the fraying fabric tying overpoliced communities of color to law enforcement. *Id.* The particular egregiousness of these stops is laid bare here where no illegality or public safety issue undergirds the expressed premise for the stop. Police, in the instant case, are not lost in imprecise or statutorily murky areas. Rather, they hope that the magic words “tinted windows” provide unfettered justification to subject New Jerseyans to unjustified

and unconstitutional stops. Indeed, if there were, in fact, a community caretaking basis for limiting tinted windows, the Administrative Code would have limited their use instead of championing it.⁵

Traffic stops are the most common interaction Americans have with police. This “common interaction,” however, has considerably different ramifications for Black motorists. In a study by Charles Epp, Steven Maynard-Moody, and Donald Haider-Markel, which distinguished between “traffic-safety stops” and “investigatory stops,” the researchers were able to accurately identify how, and in

⁵ The community caretaking exception to the warrant requirement allows searches that are not based upon probable cause or reasonable suspicion. Rather, the exception is grounded in the objective reasonableness of the police conduct based upon the totality of the circumstances. 31 N.J. Prac., Criminal Practice and Procedure § 4:10 (2021 ed.). *Cohen*’s assertion that stops based on darkly tinted windows are “sufficient reason to implicate ‘the community caretaking function’ and permit inspection of what appears to be a hazardous vehicular condition that deviates from the norm” is a thorny and potentially dangerous one and should also be disavowed. *Cohen*, 347 N.J. Super at 381. The assertion seems to validate the idea that the mere appearance of tinted windows is sufficient to justify the unlimited use of pretextual stops under the guise of caretaking. Putting to one side the Orwellian nature of the use of “community caretaking” in the context of New Jersey’s long history of racist pretextual policing practices, this rationalization creates a perverse incentive to substitute factual determinations for a hunch. See N.J. Att’y Gen., *Interim Report of the State Review Team Regarding Allegation of Racial Profiling*, 26 (Apr. 20, 1999), https://www.state.nj.us/lps/intm_419.pdf. Plate and registration infractions by Black motorists make up nearly a quarter of moving violation stops, which is alarming given that Black people make up just over 13% of New Jersey’s population; N.J. Att’y Gen., *Aggregate Report of Traffic Enforcement Activities of the New Jersey Police* (Aug. 2018), https://www.nj.gov/oag/oleps/pdfs/OLEPS-2018-Fifteenth-Aggregate-Report_TEA_njsp.pdf.

what numbers, Black drivers were stopped for different violations compared to white drivers.⁶ Traffic-safety stops are, according to police, justified by “must stop” violations, such as: speeding, reckless driving, suspicion of driving under the influence, and running a red light – often situations where the driver’s conduct is dangerous. *Id.* Investigatory stops, by contrast, are justified by “de minimis” driving violations such as malfunctioning lights, expired tags, slow driving, long stops, failure to signal, and tinted windows, issues that, according to police, prompt discretionary decisions of whether to stop the driver. *Id.* Using this distinction, the data clearly showed that Black drivers were pulled over for investigatory stops far more often than white drivers. *Id.* The authors’ data revealed that 52% of traffic stops of Black drivers were “investigatory,” whereas only 34% of stops of white drivers were “investigatory.” *Id.* These pretextual investigatory stops—condoned by *Whren*—contribute heavily to the distrust of police felt by many Black and Brown communities.⁷

⁶ Charles R. Epp, Steven Maynard-Moody & Donald Haider-Markel, *Pulled Over: How Police Stops Define Race and Citizenship* 59-61 (John M. Conley & Lynn Mather eds., 2014).

⁷ Epp, Maynard-Moody & Haider-Markel, at 143; Sharon LaFraniere & Andrew W. Lehren, *The Disproportionate Risks of Driving While Black*, N.Y. Times (Oct. 24, 2015), <https://www.nytimes.com/2015/10/25/us/racial-disparity-traffic-stops-driving-black.html> (“As the public’s most common encounter with law enforcement, [traffic stops] largely shape perceptions of the police. Indeed, complaints about traffic-law enforcement are at the root of many accusations that some police departments engage in racial profiling. Since Ferguson erupted in

Despite efforts to build awareness around the racialized use of pretextual stops, *Whren*'s doctrine justifies actual unlawful intent of law enforcement in making a stop—including when that intent is racist—so long as there is probable cause to believe that some traffic violation occurred. Where, as here, probable cause is untethered from illegality, the pretextual stop becomes an unconstrained exertion of state power over the individual.

These types of civilian-police touches are not consequence free for law enforcement or civilian, but expose well-documented and harmful consequences, albeit in dramatically different proportion, for both parties. The consequences of pretextual stops extend from officers arguably having insufficient information to assess whether the situation they are about to enter concerns a traffic violation or more serious crime, potentially causing officers to overestimate risk during pretextual stops and respond in hyperreactive and overaggressive ways increasing the likelihood of escalation to use of force⁸, to civilians experiencing a greater risk

protests in August last year, three of the deaths of African-Americans that have roiled the nation occurred after drivers were pulled over for minor traffic infractions: a broken brake light, a missing front license plate and failure to signal a lane change.”)

⁸ Jordan Blair Woods, *Policing, Danger Narratives, and Routine Traffic Stops*, 117 Mich. L. Rev. 635, 704 (2019); see also Jonathan Blanks, *Thin Blue Lies: How Pretextual Stops Undermine Police Legitimacy*, 66 Case W. Res. L. Rev. 931, 941–42 (2016) (“[d]eception before arrest implies an antagonism with the “potential dupe,” . . . who is any member of the general public who is subject to an investigatory stop—which Epp’s and other data suggests will more than likely be

of police-involved harms⁹, poorer health outcomes because of those police involved harms¹⁰, higher mortality rates triggered by those interactions¹¹, to the ossification of all of these realities—here, not even rooted in illegal behavior—into structural inequalities between people of color and white people in the United States, particularly in the criminal justice system.¹²

black or Latino. As a tactic employed predominantly against minorities, then, the deception involved in pretextual stops undermines the principles of neutrality and trust needed to ensure procedural justice. A policy that depends on the diminution of minorities’ dignity will undermine police—and therefore, governmental—legitimacy . . . and likely inflict harm upon those communities.”)

⁹ David D. Kirkpatrick, Steve Eder, Kim Barker, and Julie Tate, *Why Many Police Traffic Stops Turn Deadly*, N.Y. Times, Oct. 31, 2021, at A1.

¹⁰ Sirry Alang, Donna McAlpine, Ellen McCreedy, & Rachel Hardeman, *Police brutality and black health: Setting the agenda for public health scholars*, 107 Am. J. Public Health 662 (2017); Jacob Bor, Atheendar S. Venkataramani, David R. Williams, & Alexander C. Tsai, *Police killings and their spillover effects on the mental health of black Americans: A population-based, quasi-experimental study*, 392 Lancet, 302 (2018); Amanda Geller, Jeffrey Fagan, Tom Tyler, & Bruce G. Link, *Aggressive policing and the mental health of young urban men*, 104 Am. J. Public Health, 2321 (2014); Abigail A. Sewell, *The illness associations of police violence: Differential relationships by ethnoracial composition*, 32 Sociol. Forum 975 (2017).

¹¹ Anthony L. Bui, Matthew M. Coates, & Ellicot C. Matthay, *Years of life lost due to encounters with law enforcement in the USA, 2015-2016*, 72 J. Epidemiol. Community Health 715 (2018); Nancy Krieger *et al.*, *Police killings and police deaths are public health data and can be counted*, 12 PLOS Med.e1001915 (2015).

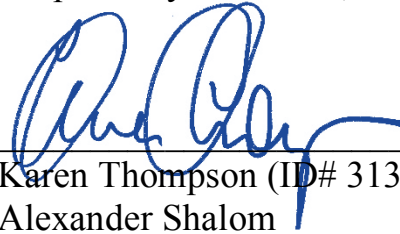
¹² See Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*, 2-3 (2010) (“[B]lackness and criminality shaped racial identity and racial oppression in modern America” and all of us have been taught to believe in “the ideological currency of black criminality.”)

Accordingly, the unjustified use of the pretextual stop should spark the same strong levels of opprobrium—both social and legal—as this Court recently described with regard to a stop based on a vague description of “Black males.” *State v. Nyema*, ___ N.J. ___, ___ (2022) (slip op. at 12).. The unconstitutional subjection of New Jersey motorists to “virtually random seizures” by police takes various forms and must be addressed in all the ways it presents, particularly when artificially condoned under the guise of public safety. *Id.*

CONCLUSION

For all these reasons, and relying on the recent adjacent decisions of this Court, *amicus* ask the court to find that the vacatur of Mr. Smith's convictions and the dismissal of all the underlying charges against him was correct in light of the unreasonable nature of Detective Doggett's stop. *Amicus* also ask this Court to overrule the holding in *State v. Cohen* and hold unequivocally that the use of tinted windows in the clearly prescribed statutory circumstances and circumstances delineated by the Administrative Code do not create a motor vehicle violation sufficient to justify a pretextual traffic stop or traffic stop of any kind.

Respectfully submitted,



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