No. 18-_____

In the Supreme Court of the United States

ZACHARIAH J. MARSHALL,

Petitioner,

v.

STATE OF INDIANA,

Respondent.

On Petition for Writ of Certiorari to the Indiana Supreme Court

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Supreme Court of Indiana's decision was contrary to federal precedent when it held that there was reasonable suspicion to substantiate a warrantless traffic stop of Marshall for speeding pursuant to the Fourth Amendment to the United States Constitution when the detaining officer could not provide an actual or estimated vehicle speed nor could he provide any other information concerning the movement of the vehicle to support his contention that Marshall was speeding?

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Zachariah J. Marshall, respectfully petitions for a writ of certiorari to review the order of the Supreme Court of Indiana which affirmed the ruling of the trial court denying his Motion to Suppress Evidence Obtained from Unlawful Traffic Stop and thereby vacating the Opinion of the Court of Appeals of Indiana which reversed said trial court's ruling.

OPINIONS BELOW

On August 8, 2017, Marshall filed his Renewed Motion to Suppress Evidence Obtained from Unlawful Traffic Stop and Request for Hearing in the Porter Superior Court 4. On August 17, 2017, the trial court held a hearing on Marshall's Motion to Suppress and said Motion was denied on August 18, 2017. The trial court's Order is reproduced at App.26a.

Marshall filed for interlocutory appeal and on June 20, 2018, the Court of Appeals of Indiana issued a published Opinion which reversed the trial court's order. The Opinion issued by the Court of Appeals of Indiana, which was subsequently vacated by the Supreme Court of Indiana, can be found at 105 N.E.3d 218 (Ind. Ct. App. 2018) and is reproduced at App.16a.

The State of Indiana filed a Petition to Transfer to the Supreme Court of Indiana which was granted. On February 27, 2019, the Supreme Court of Indiana issued an Opinion which affirmed the ruling of the

trial court and vacated the Opinion of the Court of Appeals of Indiana. The Opinion of the Supreme Court of Indiana can be found at 117 N.E.3d 1254 (Ind. 2019) and has been reproduced at App.1a.

JURISDICTION

This Court has jurisdiction to review the decision of the Supreme Court of Indiana handed down on February 27, 2019, pursuant to 28 U.S.C. § 1257(a). Specifically, this Court has jurisdiction because the Supreme Court of Indiana based its ruling on the Fourth Amendment to the United States Constitution as applied to the states by the Fourteenth Amendment to the United States Constitution.

RELEVANT CONSTITUTIONAL PROVISION

- **U.S. Const. amend. IV**

  The Fourth Amendment to the United States Constitution provides:

  "[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, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

STATEMENT OF THE CASE

On October 29, 2016, Zachariah J. Marshall ("Marshall") was pulled over by Reserve Officer Sean Dolan for allegedly speeding and was subsequently charged with Operating a Vehicle while Intoxicated (Endangering a Person), Operating a Motor Vehicle with an Alcohol Concentration Equivalent to at least .08 but less than .15; and Operating a Vehicle while Intoxicated; all Misdemeanor offenses. The only reason for the traffic stop was Marshall's alleged speeding.

On August 8, 2017, Marshall filed his Renewed Motion to Suppress Evidence Obtained from Unlawful Traffic Stop and Request for Hearing on the basis that the traffic stop violated Marshall's rights under the Fourth Amendment to the United States Constitution, as applied to the States through the Fourteenth Amendment to the United States Constitution as well as Article 1, Section 11 of the Indiana Constitution.

On August 17, 2017 a hearing was held on Marshall's Renewed Motion to Suppress Evidence Obtained from Unlawful Traffic Stop. During the suppression hearing Reserve Officer Dolan acknowledged that in his prior deposition testimony he stated he did not know the speed limit on the road where Marshall was allegedly speeding and had guessed that it may have been 40 mph. (App.32a-35a) Reserve Officer Dolan further testified at the suppression hearing that the applicable speed limit was 50 mph and he knew this because he revisited the roadway at some point between his deposition and the suppression hearing. (App.34a-36a).

Reserve Officer Dolan stated that he used his police radar to determine the speed of Marshall's vehicle but he never made any documentation of the purported speed and that he does not know the actual speed at which Marshall's vehicle was traveling. (App.32a, 38a-41a) All Reserve Officer Dolan could state about the speed of Marshall's vehicle was that it was greater than the posted speed limit. (App.40a-41a)

Importantly, at no point in time did Reserve Officer Dolan ever provide testimony as to the approximate speed of Marshall's vehicle (App.40a-42a), he did not pace the vehicle (App.37a), and he could not provide any description as to the movement of Marshall's vehicle to support his contention that Marshall was speeding. (App.42a) At the suppression hearing the following question was asked of Reserve Officer Dolan: "So, again, all we [have] to go on is essentially your word and no objective proof; its simply your word that [Marshall] was going over the posted speed limit" to which he responded "Correct." (App.42a)

August 18, 2017 the trial court issued an Order Denying Motion to Suppress. (App.26a-30a) In doing so, the trial court wrestled with the issue of whether "quantification[1], or some exact speed is required, along with knowledge of the speed limit at the scene, for there to be reasonable suspicion that a traffic infraction was being committed, as a necessary requirement for stopping [Marshall], consistent with Fourth Amendment jurisprudence." (App. 27a) Ultimately the trial court held that Reserve Officer Dolan's belief that

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[1] The trial court defined "quantification" as the lack of score or speed, to determine driving in excess of the posted speed limit.

Marshall was traveling too fast was sufficient to support the traffic stop. (App. 29a)

On September 5, 2017, Marshall filed his Motion to Certify Order Denying Motion to Suppress for Interlocutory Appeal and said Motion was granted by the trial court on September 6, 2017. On October 2, 2017, Marshall filed his Motion to Accept Jurisdiction over Interlocutory Appeal with the Court of Appeals of Indiana which was granted on November 16, 2017.

On June 20, 2018, the Court of Appeals of Indiana issued a published Opinion which reversed the trial court's order. (App.16a-25a) In doing so, the Appellate Court noted that this was an issue of first impression in the State of Indiana and held that "because Reserve Officer Dolan could not testify regarding the speed of Marshall's vehicle in more specific terms, we hold he did not have specific articulable facts to support his initiation of a traffic stop, and therefore the traffic stop violated Marshall's Fourth Amendment rights." (App.24a)

On July 20, 2018, the State of Indiana filed its Petition to Transfer this case to the Supreme Court of Indiana and said Petition was granted on September 20, 2018. Oral arguments were heard on October 15, 2018 and on February 27, 2019 the Supreme Court of Indiana issued an Opinion affirming the trial court's order. (App.1a-15a)

In doing so, the Supreme Court of Indiana held that the traffic stop initiated by Reserve Officer Dolan passed muster under both the Fourth Amendment to the United States Constitution and Article 1,

Section 11 of the Indiana Constitution.[2] (App.15a) With respect to the Fourth Amendment, the Supreme Court of Indiana found that there were sufficient articulable facts to give Reserve Officer Dolan reasonable suspicion that Marshall was speeding. (App.12a-13a) Notably, the Supreme Court of Indiana failed to conduct an analysis under the landmark case for visual speed estimates, *United States v. Sowards*, 690 F.3d 583 (4th Cir. 2012), or address the factually indistinguishable case of *State v. Petzoldt*, 803 N.W.2d 128 (Iowa Ct. App. 2011) which was relied heavily upon by the Court of Appeals of Indiana in its Opinion in this case and which was one of the cases extensively analyzed by *Sowards*.

This Petition follows the Supreme Court of Indiana's departure from *Sowards* and its progeny as well as a misapplication of Fourth Amendment jurisprudence in applying the reasonable suspicion standard.

REASONS FOR GRANTING THE WRIT

This case presents the Court with an opportunity to breathe meaningful life back into the Fourth Amendment's reasonable suspicion standard to pre-

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[2] The Supreme Court of Indiana has acknowledged that Article 1, Section 11 of the Indiana Constitution sometimes provides more protection to Indiana residents than the Fourth Amendment to the United States Constitution. *Dycus v. State*, 108 N.E.3d 301, 304 (Ind. 2018). As such, whether the traffic stop violated the Fourth Amendment is the necessary first question for an Indiana court to decide in a case such as this.

vent it from becoming an antiquated legal term that is often recited but has no practical utility in today's society.

The issue presented in this case is one of national concern as it affects every single motorist traveling within the United States. It is undisputed that the law does not permit police to pull motorists over for any conceivable reason; they must have a legitimate basis in the law for doing so. It is the task of the Fourth Amendment's reasonable suspicion standard to safeguard citizens from over-reaching by law enforcement and, when necessary, to hold government accountable.

The landmark opinion handed down by the Supreme Court of Indiana in this case is not in harmony with federal Fourth Amendment jurisprudence and represents an erosion of fundamental constitutional rights. If not reversed, this case will be relied upon by other federal and state courts to further erode fundamental constitutional rights; thereby shifting our country closer to a police state. It is time to stop the erosion and this case presents the perfect opportunity for the Court to do so.

I. THE FOURTH AMENDMENT'S REASONABLE SUSPICION STANDARD AND FEDERAL PRECEDENT DO NOT SUPPORT LAW ENFORCEMENT BEING ABLE TO STOP A MOTORIST FOR ALLEGED SPEEDING WHEN THE OFFICER IS UNABLE TO PROVIDE EVAN AN ESTIMATE AS TO THE VEHICLE'S SPEED OR ANY OTHER DETAILS REGARDING THE MOVEMENT OF THE VEHICLE TO CORROBORATE A BLANKET ASSERTION THAT THE VEHICLE WAS SPEEDING.

The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." It is well settled that the '[t]emporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a "seizure" of "persons" within the meaning of this provision. *Whren v. United States*, 517 U.S. 806, 809-10 (1996); *United States v. Sowards*, 690 F.3d 583, 587-88 (4th Cir. 2012). To justify a traffic stop under the Fourth Amendment, an officer is required to have "reasonable suspicion," that is, a particularized and objective basis for suspecting that the particular person stopped has broken the law. *Heien v. North Carolina*, 574 U.S. 54 (2014).

A. The Supreme Court of Indiana Erred By Not Applying the Legal Framework Announced in *Sowards* and, Had It Done So, There Would Not Have Been Reasonable Suspicion for the Traffic Stop.

When a traffic stop is based on alleged speeding and there is no objectively verifiable evidence of an actual vehicle speed, as in the instant case, the stop

is properly categorized as being based on a visual speed estimate and the Fourth Amendment analysis is governed by *Sowards*; a landmark case decided by the Fourth Circuit Court of Appeals. 690 F.3d 583 (4th Cir. 2012).

Although the Fourth Circuit in *Sowards* applied the standard of probable cause as opposed to reasonable suspicion to find that the officer's stop based on a visual speed estimate violated the Fourth Amendment, the analysis in *Sowards* has been subsequently utilized by federal and state courts when applying the reasonable suspicion standard.[3] As such, it was improper for the Supreme Court of Indiana to fail to analyze this case pursuant to the legal framework set out in *Sowards* when dealing with a visual speed estimate.

In an extremely well-reasoned opinion, the *Sowards* Court stated that "the Fourth Amendment does not allow, and the case law does not support, blanket approval for the proposition that an officer's visual speed estimate, in and of itself, will always suffice as a basis for [reasonable suspicion] to initiate a traffic stop." *Id.*, at 591. The question remains one of reasonableness and there must be sufficient

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[3] An illustrative, but non-exhaustive list of courts that have applied the *Sowards* analysis include: *United States v. Gaffney*, 789 F.3d 866, 870 (8th Cir. 2015); *United States v. Green*, 897 F.3d 173, 178 (3rd Cir. 2018); *United States v. Fable*, 2018 WL 3727346, *4 (D. Conn. 2018); *United States v. Diaz*, 2018 WL 1697386, *4 (D.S.C. 2018); *United States v. Reed*, 2015 WL 1649969, *6 (D. Utah 2015); *United States v. Tuyakbayev*, 2015 WL 4692847, **4-5 (N.D. Cal. 2015); *United States v. Wilson*, 2015 WL 5923558, *2 (N.D. Fla. 2015); *People v. Nice*, 247 Cal.App.4th 928, 941-942 (2016).

indicia of reliability for a court to credit as reasonable an officer's visual speed estimate. *Id.*

From this the *Sowards* court reasoned that "where an officer estimates that a vehicle is traveling in significant excess of the legal speed limit, the speed differential–*i.e.*, the percentage difference between the estimated speed and the legal speed limit–may itself provide sufficient 'indicia of reliability' to support an officer's probable cause determination." *Id.* (*See, e.g. United States v. Banks*, No. 2:08-cr-19-FtM-29SPC, 2008 WL 4194847, at *1, *4 (M.D.Fla. Sep. 11, 2008) (finding probable cause where officer observed vehicle "traveling at a high rate of speed," estimated to be 50-60 mph in a 30-mph zone, making it "extremely obvious to [the officer] that the vehicle was speeding"); *State v. Butts*, 46 Kan.App.2d 1074, 269 P.3d 862, 873 (2012) (finding reasonable suspicion where officer "estimated vehicle speed [was 45 mph in a 30-mph zone, which was] significantly higher than the posted speed limit and, as a result, a difference that would be discernable to an observant and trained law enforcement officer"); *People v. Olsen*, 22 N.Y.2d 230, 292 N.Y.S.2d 420, 239 N.E.2d 354, 355 (1968) (holding officer's visual speed estimate of vehicle traveling 50-55 mph in a 30-mph zone sufficient to support speeding conviction)).

Conversely, when "an officer estimates that a vehicle is traveling in only slight excess of the legal speed limit, and particularly where the alleged speed violation is at a speed differential difficult for the naked eye to discern, an officer's visual speed estimate requires additional indicia of reliability to support [reasonable suspicion]." *Id.*, at 592 (*See United States v.*

Moore, No. 10 Cr. 971 (RJH), 2011 U.S. Dist. LEXIS 145729, *22 (S.D.N.Y. Dec. 19, 2011) (finding that stop was unsupported by probable cause and explaining that, absent an officer's estimate that a vehicle is traveling "significantly in excess" of the legal speed limit, "courts will credit an officer's testimony regarding firsthand observation of a speeding vehicle if additional, specific details of his or her account confirm that the officer's observation and belief were reasonable"); *cf. City of Kansas City v. Oxley*, 579 S.W.2d 113, 116 (Mo. 1979) (holding that officer's uncorroborated opinion evidence of defendant's 45 mph speed in a 35 mph zone was insufficient evidence to allow trier of fact to find that defendant was speeding); *Olsen*, 239 N.E.2d at 335 ("[A]bsent mechanical corroboration, [testimony] that a vehicle was proceeding 35 or 40 mph in [a 30 mph] zone might for obvious reason be insufficient [to sustain a conviction for speeding], since it must be assumed that only a mechanical device could detect such a slight variance with [sufficient] accuracy."); *State v. Kimes*, 234 S.W.3d 584, 589 (Mo. Ct. App. 2007) ("[W]here an officer's estimation of speed is 60 mph, a fact-finder cannot conclude with any degree of certainty that a defendant was exceeding a 55 mph speed limit because the accuracy of human estimation of speed cannot easily, readily, and accurately discriminate between such small variations in speed.); *People's Drug Stores, Inc. v. Windham*, 12 A.2d 532, 537 (Md. 1940) ("[A]n estimate is necessarily approximate and not exact for without mechanical aides it is manifestly impossible for anyone . . . to estimate precisely the speed of a moving object, and that fact is assumed by everyone possessing ordinary common sense.").

The *Sowards* court went on to explain that "[t]he reasonableness of an officer's estimate that a vehicle is traveling in slight excess of the legal speed limit may be supported by radar, pacing methods, or other indicia of reliability that establish, in the totality of the circumstances, the reasonableness of the officer's visual speed estimate. *Id.*; (*See e.g., United States v. Gomez Valdez*, No. 4:10CR3100, 2011 U.S. Dist. LEXIS 118328, 2011 WL 5037190, at *4 (D. Neb. Sept. 12, 2011) (finding probable cause where an officer's visual estimate was verified by radar confirming that defendant was traveling 70 mph in a 65 mph zone (emphasis added)); *United States v. Nunez*, No. 1:10-CR-127, 2011 U.S. Dist. LEXIS 61726, 2011 WL 2357832, at *1 (D. Utah June 9, 2011) (finding reasonable suspicion where officer's visual estimate was supported by pacing, which confirmed that defendant was traveling 85 mph in a 75 mph (emphasis added)); *United States v. Colden*, No. 11-M-989-SKG, 2011 U.S. Dist. LEXIS 122048, 2011 WL 5093777, at *1, *2 (D. Md. Oct. 21, 2011) (holding that officer's "visual estimation of defendant's speed, in combination with the officer's observations that his car shook [when defendant's car passed] and that defendant tapped his breaks, amounts to a reasonable articulable suspicion that defendant was speeding"); *United States v. Fuentes*, No. 09 Cr. 860, 2010 U.S. Dist. LEXIS 16489, 2010 WL 707424, at *3 (S.D. Tex. Feb. 23, 2010) (finding reasonable suspicion where an officer's visual speed was supported by additional observations–*i.e.* vehicle's relative speed and roaring engine–and such observations were corroborated by patrol car's video camera); *United States v. Riley*, No. 07 Cr. 226, 2007 U.S. Dist. LEXIS 80281, 2007 WL 3204063, at *4

(D. Neb. Oct. 30, 2007) (finding reasonable suspicion where officer's visual speed estimate was supported by separate radio dispatch indicating defendant's vehicle was being driven recklessly).

"In the absence of sufficient indicia of reliability, an officer's visual approximation that a vehicle is traveling in excess of the legal speed limit is a guess that is merely conclusory and which lacks the necessary factual foundation to provide an officer with reasonably trustworthy information to initiate a traffic stop." *Id.* Ultimately, the court in *Sowards* held that the officer's traffic stop for speeding was unconstitutional for the following reasons: the officer's credibility was suspect; his visual speed estimate was a guess that was merely conclusory without any appropriate factual foundation; and that it lacked the necessary indicia of reliability to be an objectively reasonable basis to initiate the traffic stop. *Id.*, at 594.

As articulated above, the *Sowards* court went into great detail articulating the appropriate test to use to analyze Marshall's Fourth Amendment claim, yet the Supreme Court of Indiana incorrectly refused to apply *Sowards* on two grounds: the *Sowards* court evaluated the traffic stop for probable cause as opposed to reasonable suspicion and Reserve Officer Dolan's claim that he used a radar, without any verification, removes this case from being considered a visual speed estimate to which *Sowards* applies.

As indicated above, the Supreme Court of Indiana's contention that *Sowards* only applies to an evaluation of probable cause for a traffic stop was error. Since *Sowards*, federal and state courts have acknowledged that reasonable suspicion, as opposed to probable

cause, is the proper legal standard to utilize when analyzing the constitutionality of a warrantless traffic stop and, after having made such an acknowledgment, apply *Sowards* to the reasonable suspicion analysis when alleged speeding is the basis for the stop.

Equally important is the claimed use of a radar necessarily implies that the officer can testify as to the radar speed. A beeping sound by a radar only informs its user that a vehicle is approaching, it does not reveal an actual speed. When using a radar, it is the officer's responsibility to observe the radar, identify an <u>actual</u> vehicle speed from the radar, and then correlate that speed to the officer's knowledge of the applicable speed limit. The case law cited above is consistent on this point. As such, when an officer is unable to testify factually about an actual radar speed when a radar is claimed to have been used, there is no longer any presumptive validity as to vehicle speed that the use of a radar would ordinarily carry to support reasonable suspicion. In the absence of any such presumptive validity, the stop is properly analyzed as a visual speed estimate under *Sowards*.

Although the Supreme Court of Indiana erred by not applying *Sowards* to the facts of this case, had it done so the court would have been forced to conclude that Reserve Officer Dolan lacked reasonable suspicion to stop Marshall's vehicle. This is so because Reserve Officer Dolan could not even provide enough information to engage in the appropriate analysis under *Sowards*.

As *Sowards* and applicable case law make clear, the requisite Fourth Amendment analysis requires, at a minimum, an officer's knowledge of the actual

speed limit at the time of the traffic stop and at least an estimation of the vehicle's speed. This is the minimum essential information needed to engage in the appropriate Fourth Amendment analysis to resolve this case and is information that Reserve Officer Dolan did not possess.

Reserve Officer Dolan could not provide so much as an estimate as to Marshall's vehicle speed or any context as to how he determined that Marshall was speeding. This is a critical piece of information and all that Reserve Officer Dolan was able to admit was that he did not recall how fast Marshall's vehicle was traveling; he just makes the conclusory statement that he was going over the speed limit.

Consequently, it is impossible to determine, based on Reserve Officer Dolan's own testimony, whether Marshall's vehicle was traveling in significant excess of the posted speed limit or in slight excess. This missing piece of critical information, by itself, does not allow any court to engage in the appropriate Fourth Amendment analysis and necessarily means that the traffic stop was unlawful.

B. Assuming, Arguendo, that the Analytical Framework in *Sowards* Does Not Apply, the Supreme Court of Indiana Nonetheless Erred By Misapplying Fourth Amendment Precedent as to Reasonable Suspicion and By Ignoring a Factually Indistinguishable Case from Iowa that Was Relied Heavily Upon By the Court of Appeals of Indiana.

As this Court has previously stated, "reasonable suspicion is a less demanding standard than probable

cause," requiring a showing "considerably less than preponderance of the evidence," but there must be "at least a minimal level of objective justification for making the stop." *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000) (emphasis added). A hunch will not suffice. *Terry v. Ohio*, 392 U.S. 1, 27 (1968). Rather, an "officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant" the investigative stop. *Id.* at 21. The officer may then "briefly stop the suspicious person and make 'reasonable inquiries' aimed at confirming or dispelling his suspicions." *Minnesota v. Dickerson*, 508 U.S. 366, 373 (1973).

The Court must evaluate the "totality of the circumstances" to determine whether the investigators had a "particularized and objective basis" for suspecting legal wrongdoing. *United States v. Arvizu*, 534 U.S. 266, 273 (2002); *see also United States v. Williams*, 619 F.3d 1269, 1271 (11th Cir. 2010). Stated somewhat differently, reasonable suspicion "takes into account 'the totality of the circumstances–the whole picture.'" *Navarette v. California*, 572 U.S. 393, 397 (2014). Reasonable suspicion "need not rule out the possibility of innocent conduct," but rather depends on a commonsense approach based on "the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." *Id.* at 402 (internal quotations omitted).

Even if the Court were to assume that Reserve Officer Dolan actually knew the applicable speed limit at the time he observed Marshall's vehicle,[4] knowing

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[4] Marshall has and continues to contend that it was an abuse of discretion for the trial court to find that Reserve Officer Dolan

the speed limit is immaterial if the Officer can't even provide so much as an estimate as to the vehicle's speed or the manner in which it was operated so as to substantiate an allegation of speeding.

If a reasonable and prudent person without any legal training were to apply a practical, common-sense evaluation to the facts of this case, that person would conclude that Reserve Officer Dolan did not have a particularized and objective basis for stopping Marshall. It's common-sense that for an officer to legitimize pulling someone over for speeding said officer would need to know the applicable speed limit and, at the very least, be able to provide either a speed estimate or articulate his or her observations as to how the vehicle was operated which led the officer to conclude that the motorist was speeding.

The Supreme Court of Indiana further erred by failing to acknowledge and follow the factually indistinguishable case of *State v. Petzoldt* which was relied heavily upon by the Court of Appeals of Indiana in its Opinion. 803 N.W.2d 128 (Iowa Ct. App. 2011).

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knew the applicable speed limit at the time of the traffic stop. Reserve Officer Dolan testified that he patrols the area often, is very familiar with the roadway, he patrolled the roadway after he stopped Marshall, and that the applicable speed limit never changed. That being said, he did not know the speed limit at the time of his deposition and incorrectly guessed that it may have been 40 mph. He subsequently testified at the suppression hearing that he confirmed the speed limit was 50 mph after he revisited the scene in preparation for the suppression hearing. He was unable to explain his loss of knowledge as to the speed limit but asks to be taken at his word that he knew it at the time he stopped Marshall.

Consequently, there is now a state court split on the unique issues and facts presented by this case.

CONCLUSION

Collectively, the reasons stated above provide strong justification for the Court to grant certiorari in this case. If allowed to stand, the Opinion by the Supreme Court of Indiana applying Fourth Amendment jurisprudence will not be in harmony with prevailing federal and state law. The case will be relied upon by other federal and state courts to further erode the reasonable suspicion standard. This case is an excellent opportunity for the Court to remind citizens, law enforcement, and courts throughout the country that although reasonable suspicion may be a low standard, it is a standard nonetheless.

Respectfully submitted,

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