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IN THE SUPREME COURT
OF FLORIDA

CASE NO. 86,650

FILED

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CLERK, SUPREME COURT
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PHILLIP CAMPBELL,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

BRIEF OF AMICUS CURIAE
DEPARTMENT OF HIGHWAY SAFETY
AND MOTOR VEHICLES

ENOCH J. WHITNEY
General Counsel

JUDSON M. CHAPMAN
Fla. Bar No.: 189349
Assistant General Counsel
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building, A-432
Tallahassee, Florida 32399-0504
Telephone: (904) 488-1606

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PRELIMINARY STATEMENT

Amicus, Department of Highway Safety and Motor Vehicles, will be referred to as Amicus or the Department. Petitioner Campbell and Respondent State will be referred to as Petitioner or Respondent. References to the Appendix of Amicus will be designated "A" followed by the page number.

SUMMARY OF THE ARGUMENT

The Amicus Brief of the Department is filed as a one of the primary enforcement agencies of Chapter 316, Florida Statutes. Amicus will address the issue involving the State's interest in performing safety or speed related checkpoints. The police traffic safety stop at issue in this petition constitutes a viable law enforcement method for implementing the state's police powers in this area that fully complies with the state interest test set forth in Michigan Department of State Police v. Sitz, 496 U.S. 444 (1990). The Legislative regulation in the area of vehicle safety, driver competence and driver behavior clearly justify the checkpoint under review. Based on statistics compiled by the Department, the incidents of crashes by speeders or crashes with defective vehicles is every bit as significant as the recognized need to apprehend drunk drivers or interdict drugs. There is no less a compelling reason to conduct a safety or speed check as for conducting a DUI roadblock, because both involve enhancing public safety and use of the automobile. To trivialize the state's interest in this regard is to disregard the overriding safety and education concerns inherent in a motor vehicle safety checkpoint.

The Court's of this state have long recognized the nature of a drivers license as a privilege and the concomitant need of the driving public to adhere to the rules of the road for the safety of the public as a whole. The attempt to regulate the degree of intrusion encountered in a checkpoint by the degree or weight of the state interest in the particular conduct being checked should be rejected, under the facts of this case. So long as there is a legitimate connection between the stop and vehicle regulation as enacted by the legislature, the gravity of the public concern should not be diminished. Otherwise, there is a great disservice to those injured or killed

due to faulty equipment or speeding as opposed to those injured from drunk drivers. The personal and financial tragedies are just as acute.

The First District's opinion recognizes the gravity of public concern, which should continue to be the determination by this Court.

ARGUMENT

THE GRAVITY OF PUBLIC CONCERN IN THE AREA OF SPEED ENFORCEMENT AND VEHICLE SAFETY CHECKS IS MORE THAN SUFFICIENT TO SATISFY CONSTITUTIONAL STANDARDS FOR POLICE CHECKPOINTS.

Section 316.640, Florida Statutes vests enforcement of the traffic laws of this state in state, county or municipal officers, depending on their jurisdiction, "on all the streets and highways ...and elsewhere...wherever the public has a right to travel by motor vehicle." Section 321.05, Florida Statutes describes the duties, functions and powers of the Florida Highway Patrol, which includes enforcement of all laws regulating traffic, travel and public safety upon the public highways and providing for protection of the highways and public property thereon. It also authorizes the Florida Highway Patrol to require drivers of vehicles to stop and exhibit their driver's licenses, registration cards, or documents required by law to be carried by such vehicles. Traffic and drivers are regulated by registration and titling provisions in Chapters 319 and 320, Florida Statutes and as to operator licensing by Chapter 322, Florida Statutes. The comprehensive legislative regulation of motor vehicles and their operators is most recently reflected in Chapter 95-202, Laws of Florida, effective October 1, 1995, which enacted a vehicle impoundment procedure by law enforcement for vehicles operating under certain conditions without maintaining required insurance. The bill further created a pilot program in three counties authorizing the seizure of license plates from vehicles shown not to have insurance.

It is axiomatic that motor vehicles are pervasively regulated. In City of Miami v. Aronovitz, 114 So.2d 784, 788 (Fla. 1959), this Court examined the propriety of a roadblock to

check driver's licenses. In sustaining the roadblock, the Court examined the nature or gravity of the law enforcement interest in conducting such a roadblock, as follows:

Giving recognition to our established judicial viewpoint that an automobile is a dangerous instrumentality, we must conclude that any procedure lawfully directed toward the effective prevention of the negligent operation of the automobile and the imposition of requirements of competency on the part of the driver thereof, should meet with judicial approbation.

The court looked at traffic statistics for 1958 and 1959 concerning fatalities and accidents, as well as licensed vehicles and drivers. The decision describes more than 2,268,000 licensed vehicles in Florida at that time. Reference to Florida statistics for 1994 indicates there are now over eleven million registered vehicles and 11,992,578 licensed drivers. (A-1) Whatever judicial concerns existed in 1959 have only multiplied in the ensuing years!

The First District, in the decision below, recognized the vital interest in the health, safety and welfare of its citizens justifying the use of safety related roadblocks. In Merrett v. Moore, 58 F.3d 1547 (11th Cir. Ct. 1995) a mixed motive roadblock was sustained where one purpose justified the stop. "At least to the extent the operation was conducted to ensure compliance with the state's driver licensing and vehicle registration laws, the operation advanced an important state interest." emphasis added, Merrett, supra.

The assertion that the state's interest in this traffic safety stop cannot be deemed to be great is simply erroneous and unfounded. There is no authority to support this argument. Chapter 316, Florida Statutes contradicts the position. Department statistics show otherwise. In Duval County for 1994, 439 persons were injured in speeding crashes, 19 were killed in such crashes; 591 persons were injured in defective vehicle crashes and 17 persons were killed in such crashes (A-2). These figures are vastly multiplied when examined from a statewide perspective

(A-3). It is evident that the state's interest in vehicle safety and speeding are no less compelling than ridding the streets of drunk drivers or drug couriers, although the underlying offenses may differ in degree.

The legislature continues to recognize the need for motor vehicle inspection. The language of section 325.001, Florida Statutes provides that any county which so chooses may have a motor vehicle inspection program. The Legislature has also not enacted a provision calling for DUI checkpoints, yet the need for that type enforcement is not seriously questioned. Sections 316.610 and 316.6105, Florida Statutes continue to impose safety requirements on operators through correction cards or citations issued by law enforcement. Section 316.614, Florida Statutes, "Safety belt usage" provides in part, as follows:

(8) It is the intent of the Legislature that all state, county, and local law enforcement agencies, safety councils, and public school systems, in recognition of the fatalities and injuries attributed to unrestrained occupancy of motor vehicles, shall conduct a continuing safety and public awareness campaign as to the magnitude of the problem and adopt programs designed to encourage compliance with the safety belt usage requirements of this section.


The safety stop or checkpoint at issue, while primarily aimed at speeders and equipment violators, also had an educational aspect, an awareness aspect and the opportunity to check for drivers license, registration and seat belt usage. It is interesting to note that the arrest resulted from a search at the jail following an arrest for suspended drivers license. It is also significant that the intrusion was very slight and that no drug dogs or other detection was utilized other than the officer's observations.

CONCLUSION

It is the position of the respective law enforcement agencies represented in this Amicus Brief that the gravity of public concern fully justifies a checkpoint for motorist education regarding vehicle equipment and speeding. This becomes even more evident when instituted in response to a serious accident occurring near a residential area. Checkpoints remain a valid police tool when used in conformity with the standards set forth in State v. Jones, 483 So.2d 433 (Fla. 1986).

Respectfully submitted,

ENOCH J. WHITNEY
General Counsel



JUDSON M. CHAPMAN
Fla. Bar No.: 189349
Assistant General Counsel
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building, A-432
Tallahassee, Florida 32399-0504
Telephone: (904) 488-1606

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular United States mail to Stephen R. White, Assistant Attorney General, Office of the Attorney General, The Capitol, Tallahassee, Florida 32399-1050; William J. Sheppard, Esquire and Richard W. Smith, Esquire, Sheppard and White, P.A., 215 Washington Street, Jacksonville, Florida 32203; Electra Theodorides, Deputy General Counsel, Florida Sheriffs Association, Post Office Box 12519, Tallahassee, Florida 32317-2519; and George Aylesworth, Attorney for Florida Police Chiefs, 9105 N.W. 25th Street, Room 3042, Miami, Florida 33172-1505; on this 18th day of March, 1996.



JUDSON M. CHAPMAN