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IN THE SUPREME COURT  
OF FLORIDA

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CASE NO. 86,650  
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PHILLIP CAMPBELL,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

On Petition for Writ of Certiorari from a  
Decision of the First District Court of Appeal

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INITIAL BRIEF ON THE MERITS  
\_\_\_\_\_

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Respondent.

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PRELIMINARY STATEMENT

Petitioner, Phillip Campbell, will be referred to herein by name or as "petitioner." Respondent, State of Florida, will be referred to herein as the "State" or "respondent." References to the record on appeal will be designated by reference to the relevant volume and page, set forth in brackets. Example, [R.I, 1].

### STATEMENT OF CASE AND FACTS

Phillip Campbell was stopped on Friday, May 7, 1993, around 6:00 p.m., at a "police traffic safety stop" by officers of the Jacksonville Sheriff's Office. [R.I, 1-4]. The "safety stop" was conducted on a three-quarter mile segment of a two-lane road between two curves in the 11800 block of Mandarin Road, a residential area, during busy traffic conditions. [R.I, 4; II, 16-17, 24, 38]. The roadblock was conducted largely at night under varied available lighting conditions. [R.II, 29-30]. Cones and signs were placed on or near the roadway, but the record does not reflect their degree of visibility or readability. [R.II, 7-8]. At this safety stop or roadblock, police officers checked for traffic and automobile safety violations pursuant to §316.610, Fla. Stat. [R.II, 6-10, 15-16, 27-28, 33, 39]. Motorcycle officers with radar equipment were posted at the scene at each end of the roadblock area to monitor speed. [R.II, 24].

On two or three occasions during the "safety stop," groups of cars in undetermined numbers, perhaps totalling 30 to 60, were permitted to pass unchecked through the safety stop to alleviate traffic backups. [R.II, 9-11, 34-37; III, 47]. Decisions to permit cars to pass unchecked were within the discretion of officers at the scene. [R.II, 36-37]. The only written guidelines for the operation at issue, in a Directed Patrol Worksheet, stated that the problem sought to be addressed was "speeding" and that officers would "stop motorists for a traffic safety check." [R.I, 30]. In contrast, Jacksonville Sheriff's Office Operational Order

12.1.1 requires that a Directed Patrol Worksheet specify procedures regarding the selection of vehicles to be stopped, detention techniques and duty assignments for all officers involved. [R.I, 47-48].

After requesting Mr. Campbell's driver's license and registration at the roadblock, an officer discovered that Mr. Campbell's license had been suspended on September 12, 1992. [R.I, 4]. Mr. Campbell was then transported to the county jail where officers searched Mr. Campbell and found contraband in a sock, resulting in the criminal charge at issue in this case. [R.I, 1-2].

Mr. Campbell filed his Motion to Suppress Fruits of Illegal Arrest on August 20, 1993, to exclude the contraband as evidence in this case. [R.I, 23-24]. Mr. Campbell filed a supporting memorandum of law on September 2, 1993. [R.I, 25-29]. A hearing on the motion was held on September 2, 1993 and September 17, 1993. [R.II, III]. His motion was denied on September 17, 1993, without findings of fact or conclusions of law. [R.I, 32]. Mr. Campbell subsequently entered a plea of nolo contendere, specifically reserving the right to appeal the denial of his Motion to Suppress. [R.I, 34-35; IV, 71-72, 77-78]. The parties stipulated that the suppression issue addressed in this appeal is dispositive of the case. [R.I, 34-35; IV, 71-72, 78].

The First District Court of Appeals on October 13, 1995, affirmed the trial judge's order denying petitioner's motion to suppress. Judge VanNortwick wrote a dissenting opinion. The

petitioner timely petitioned this Court for certiorari, and the Court accepted jurisdiction on January 26, 1996. The petitioner's Initial Brief on the Merits follows.



## SUMMARY OF THE ARGUMENT

The roadblock in the instant case violated the Fourth and Fourteenth Amendments of the United States Constitution and Article I, Section 12 of the Florida Constitution. Stopping a vehicle and its occupant is a seizure for purposes of the Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section 12 of the Florida Constitution. Accordingly, such a seizure must be reasonable. Reasonableness is determined by analyzing the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the intrusion on individual liberty.

First, the gravity of the public concerns of speeding and safety equipment violations served by the roadblock at which Phillip Campbell was stopped in this case is slight in comparison to more serious concerns, such as drunken driving and illegal drug transportation. The lower the State's interest, the lower the degree of intrusion that will be tolerated. Education of the public and prevention of safety equipment violations is not sufficient to warrant the intrusive roadblock established in the instant case.

Second, the degree to which the roadblock in this case advances the public interest is minimal. The use of radar units and the giving out of citations, as common sense and experience teaches, will result, at best, in temporary and isolated effects.

Third, the severity of the interference with individual liberty in this case is excessive because the roadblock was

conducted in a congested, residential area during night hours under circumstances that rendered the roadblock dangerous and surprising to the public. Officers at the scene possessed and exercised unlimited discretion because of the absence of adequate written guidelines. Further, the police could have employed less intrusive alternatives, such as routine patrols, rather than a discretionary roadblock to address speeding and equipment safety concerns.

Accordingly, the appellate court erred in affirming the denial of Mr. Campbell's dispositive Motion to Suppress Fruits of Illegal Arrest and this Court should vacate his conviction.

## ARGUMENT

Stopping a vehicle and detaining its occupants, even if only for a brief time, constitutes a seizure within the meaning of the Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section 12 of the Florida Constitution, and accordingly, must be reasonable. Michigan Dept. of State Police v. Sitz, 496 U.S. 444 (1990); Delaware v. Prouse, 440 U.S. 648 (1979); United States v. Martinez-Fuerte, 428 U.S. 543 (1976). The constitutionality of a seizure is judged by balancing the degree of intrusion on an individual's constitutional interests in privacy and personal security against the seizure's promotion of legitimate governmental interests. State v. Jones, 483 So.2d 433 (Fla. 1986) (citing, Brown v. Texas, 443 U.S. 47 (1979), and Prouse, *supra*, at 656-57). The reasonableness or unreasonableness of the intrusion caused by a roadblock is ascertained on an individual basis considering all relevant circumstances. Cardwell v. State, 482 So.2d 512, 514 (Fla. 1st DCA 1986). The three factors to consider in determining the unreasonableness of a roadblock are (1) the gravity of the public concerns served by the seizure (i.e., the state's interest), (2) the degree to which the seizure advances that public interest (i.e., the extent to which the roadblock reasonably advances that interest), and (3) the severity of the interference with individual liberty (i.e., the degree of intrusion upon individual motorists). Sitz, *supra* at 455; Brown, *supra* at 50-51 (1979); Jones, *supra* at 435.

I.

**THE STATE'S INTEREST IN SLOWING DOWN VEHICLES,  
EDUCATING THE PUBLIC AND CHECKING FOR  
EQUIPMENT PROBLEMS IS INSUFFICIENT TO SATISFY  
CONSTITUTIONAL STANDARDS.**

Petitioner, Phillip Campbell, was stopped in his vehicle at a "police traffic safety stop" by officers of the Jacksonville Sheriff's Office. The "safety stop" was conducted largely at night on a three-quarter mile segment of a two-lane road between two curves in a residential area during busy traffic conditions. [R.II, 16-17, 24, 38]. The purported reasons for the stop were to slow down vehicles, to educate and to check for equipment problems. [R.III, 51]. After it was discovered that Mr. Campbell had a suspended license, he was transported to the county jail where officers searched him and found powder cocaine and marijuana in his sock. The First District below, in Campbell v. State, \_\_\_ So.2d \_\_\_, 20 F.L.W. D2132 (Fla. 1st DCA, September 13, 1995), found that the trial court did not err in denying Mr. Campbell's Motion to Suppress the seized evidence.

The majority opinion of the Campbell decision recognizes that the State has an interest in regulating the speed of vehicles and their fitness for operation. In its Directed Patrol Worksheet (DPW), which governed the challenged roadblock, the law enforcement agency indicated two motivating public concerns: driving in excess of the posted speed limit and driving with safety equipment violations. However, merely recognizing the State has an interest in preventing speeders and safety equipment violations is insufficient under the Brown balancing test. There needs to be

some consideration of the weight to give to the State's interest. The greater the state interest, the more weight is given to that factor.

In the instant case, the State's interest cannot reasonably be argued to be great. There are State interests in preventing other vehicular-related problems that deserve much more weight than the prevention of speeders and equipment violators. Compared to the gravity of other vehicular offenses, such as driving under the influence and vehicle transportation of illegal drugs, the gravity of public concerns with speeding and equipment violations is small.

For example, the State has a compelling interest in protecting the public from drunk drivers. State v. Jones, 483 So.2d 433, 439 (Fla. 1986). In Jones, this Court considered whether a roadblock established for the purpose of apprehending DUI drivers was constitutionally valid. This Court applied the Brown v. Texas, 443 U.S. 47 (1979) balancing test which includes consideration of the gravity of the public concern. Id. at 435. Although the gravity of detecting drunken drivers is great, it was not sufficient to authorize the roadblock in Jones. This Court found the roadblock invalid. Id. at 439; see Michigan Dept. of State Police v. Sitz, 496 U.S. 444 (1990). The State's interest in preventing citizens from exceeding posted speed limits or in preventing equipment problems such as window tint or defective brake lights is certainly less compelling than the State's interest in preventing drunken drivers. The interests allegedly advanced under the Directed

Patrol Worksheet are simply insufficient to justify the intrusive roadblock in the instant case.

The dissenting opinion in the Campbell case below explained the great difference between the interests advanced in other roadblocks and the interests allegedly advanced in the instant case:

As the advanced governmental interest becomes more compelling, logically, under the balancing test, it will carry more weight.

\* \* \*

Even though the Florida Legislature has recognized a state interest in vehicle safety by adopting laws mandating certain motor vehicle equipment, sections 316.215-316.6105, Florida Statutes (1993), and by authorizing police officers to stop and inspect a motor vehicle "upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law," section 316.610(1), Florida Statutes (1993), the Legislature has not concluded that the public's concern with vehicle safety is sufficiently grave to enact specific statutory authorization for advancing the enforcement of motor vehicle safety and equipment laws through the use of police roadblocks. Further, in 1981, the Legislature repealed Florida's statewide system of mandatory motor vehicle inspection and certification, Ch. 81-212, 1981 Fla. Laws 840, repealing sections 325.11-325.33, Florida Statutes (1979) [repealed]; and, even while the safety inspection system was in place, operation of an automobile without a valid inspection sticker was only a "noncriminal violation." State v. Webb, 335 So.2d 826, 827 (Fla. 1976). Thus, the state interest in preventing drunk driving, upheld in Sitz as a "grave and legitimate" state interest, 496 U.S. at 451, 110 S.Ct. at 2485-2486; in interdicting the flow of illegal drugs, upheld in Cardwell v. State, 482 So.2d 512 (Fla. 1st DCA 1986); or in detecting illegal aliens, upheld in Martinez-Fuerte, 428 U.S. at 562, 96 S. Ct. at 3085, all must be seen as more

compelling governmental interests than the state's interest in motor vehicle safety or in general education of the driving public advanced here, given the Legislature's minimal regulation of this matter. This conclusion is significant when a court, as here, is required to measure the reasonableness of the Fourth Amendment seizure, because a less compelling state interest will only support a less intrusive interference with liberty.

Campbell v. State, \_\_\_ So.2d \_\_\_, 20 F.L.W. D2132 (Fla. 1st DCA, September 13, 1995) (VanNortwick, dissenting).

The State's interests are further minimized when considering the extent of the intrusion upon the individual's Fourth Amendment rights. The roadblock was primarily conducted at night during periods of heavy traffic. [R.II, 29-30, 38]. Additionally, the roadblock was conducted on a three-quarter mile segment of road between two curves. Moreover, the roadblock was conducted in a residential area. [R.II, 16-17]. Based on these considerations, it becomes clear that the intrusion upon the individual's Fourth Amendment right to be free from unreasonable searches and seizures outweighs the States's interest in preventing speeders, educating the public or checking for equipment problems. See, Brown v. Texas, 443 U.S. 47 (1979) (balancing legitimate governmental interest against degree of intrusion).

## II.

### THE ROADBLOCK ADVANCED THE STATE'S INTEREST, IF AT ALL, ONLY MINIMALLY.

Any impact on the public was minimal or slight. Speeders will be convinced to reduce their speed only temporarily. Although there were two radar units at each end of the roadblock, there is no evidence in the record that such units were visible. Even assuming that motorists saw the radar units, the motorists will not be impressed to drive at the posted speed limits permanently. Rather, common sense and experience teach that the sight of a radar unit affects the motorists only temporarily. Significantly, none of the motorists who were stopped were informed that the roadblock was to educate them about speeding. It was "immediately explained to the drivers of the vehicles what the purpose was, told them that there had been a bad accident, we were doing a traffic safety stop, [and asked] if they had their drivers license." [R. II, 10]. Accordingly, the State's interest in preventing speeders was advanced minimally at best.

Likewise, the interest in preventing equipment problems was slightly advanced, if at all. Only those motorists who were given citations for equipment failure would be impressed to repair or replace the faulty equipment. The desired result that the roadblock educate and induce the other motorists to repair or replace their faulty equipment in their own vehicles is speculative.



Besides, had the State wanted to advance its interest in preventing speed and safety equipment violations, it should have considered the U.S. Supreme Court's advice from Prouse, supra:

The foremost method of enforcing traffic and vehicle safety regulations, it must be recalled, is acting upon observed violations.

Prouse, supra at 659. In other words, the most effective means of preventing vehicle safety violations is by routine patrol monitoring, not intrusive roadblocks.

### III.

#### THE SEVERITY OF THE INTRUSION UPON INDIVIDUAL MOTORISTS WAS SO EXCESSIVE AS TO VIOLATE CONSTITUTIONAL STANDARDS.

The use of roadblocks intrudes upon a citizen's liberty to drive his vehicle freely and with privacy. As the United States Supreme Court has stated:

An individual operating or traveling in an automobile does not lose all reasonable expectation of privacy simply because the automobile and its use are subject to government regulation. Automobile travel is a basic, pervasive, and often necessary mode of transportation to and from one's home, workplace, and leisure activities. Many people spend more hours each day traveling in cars than walking on the streets. Undoubtedly, many find a greater sense of security and privacy in traveling in an automobile than they do in exposing themselves by pedestrian or other modes of travel. Were the individual subject to unfettered governmental intrusion every time he entered an automobile, the security guaranteed by the Fourth Amendment would be seriously circumscribed.

Delaware v. Prouse, 440 U.S. 648, 662-63 (1979); see United States v. Martinez-Fuerte, 428 U.S. 543, 571 (1976) (Brennan, J., dissenting) (explaining that a roadblock was "a dragnet-like procedure offensive to the sensibilities of free citizens.").

The U.S. Supreme Court, recognizing that "unreviewable discretion would be abused by some officers in the field," held that a roadblock must have either a factual basis for suspicion or the existence of objective standards governing the exercise of discretion. Specifically, the Court held:

The marginal contribution to roadway safety possibly resulting from a system of spot

checks cannot justify subjecting every occupant of every vehicle on the roads to a seizure - limited in magnitude compared to other intrusions but nonetheless constitutionally cognizable - at the unbridled discretion of law enforcement officials. To insist neither upon an appropriate factual basis for suspicion directed at a particular automobile nor upon some other substantial and objective standard or rule to govern the exercise of discretion "would invite intrusions upon constitutionally guaranteed rights based on nothing more substantial than inarticulate hunches . . . ."

Prouse, 440 U.S. at 661, (citing, Terry v. Ohio, 392 U.S. 1, 22 (1968)).

**A. The Roadblock Lacked Detailed Written Guidelines.**

The Florida Supreme Court has required that written guidelines should detail the procedure which field officers are to follow at a roadblock:

Written guidelines should cover in detail the procedures which field officers are to follow at the roadblock. Ideally, these guidelines should set out with reasonable specificity procedures regarding the selection of vehicles, detention techniques, duty assignments, and the disposition of vehicles . . . . [C]ourts should view each set of guidelines as a whole when determining the plan's sufficiency.

State v. Jones, 483 So.2d 433, 438 (Fla. 1986). The Jones court held unconstitutional a discretionary roadblock involving seizures without articulable suspicion of illegal activity. Even with the higher-interest sobriety roadblock at issue in that case, the Supreme Court held that the State failed to prove that the roadblock met the balancing test enunciated in Brown and thus, the

roadblock violated the Fourth Amendment to the United States Constitution. Id. The Court reasoned:

Paramount among all other considerations, the fourth amendment requires that all seizures be based on either: (1) specific evidence of an existing violation; (2) a showing that reasonable legislative or administrative inspection standards are met; or (3) a showing that officers carry out the search pursuant to a plan embodying specific neutral criteria which limit the conduct of the individual officers. Because DUI roadblocks involve seizures made without any articulable suspicion of illegal activity, most states examining this issue have ruled that such roadblocks stand or fall based on some set of neutral criteria governing the officers in the field. Courts requiring such a neutral plan do so out of a fear that unbridled discretion in the field invites abuse. We agree and find that it is essential that a written set of uniform guidelines be issued before a roadblock can be utilized.

Id. (internal citation omitted). Accordingly, the Court held that advance written procedural guidelines for roadblocks are necessary to limit the discretion of field officers and thus, to restrict "the potential intrusion into the public's constitutional liberties." Id.

Additionally, the court in Hartsfield v. State, 629 So.2d 1020 (Fla. 4th DCA 1993), applied Jones to reverse the denial of a suppression motion in a sobriety roadblock case. The Hartsfield court held that, "[t]he absence of specific written guidelines renders the roadblock operation fatally defective under State v. Jones." Id. The court held that officers' testimony regarding standard roadblock operating procedures was insufficient to meet the Jones constitutional standard.

In the instant case, the State presented guidelines so unspecific that field officers' discretion was left unconstrained because of a deficient Directed Patrol Worksheet. Operational Order 12.1.1(IV)(B)(2) of the Jacksonville Sheriff's Office requires that such worksheets contain clear guidelines, including the procedures regarding the selection of vehicles, detention techniques, and specific duty assignments for officers at the scene:

In the event a safety check deployment is utilized, the following procedures shall apply:

1. The Supervisor of the proposed operation shall initiate a Directed Patrol Worksheet (P-883), showing themselves as the tactical leader of said operation; and

2. The supervisor completing the Directed Patrol Worksheet should be aware that the safety check deployment must be conducted in such a manner as to eliminate the discretion of the officers in the field. Thus, the Directed Patrol Worksheet should contain the following guidelines in the "Description of Strategy" section in an effort to accomplish this:

a. **Procedures regarding the selection of vehicles** (i.e., officers will check every third vehicle or every fifth vehicle, etc.);

b. **Detention Techniques** - Officers shall have the driver pull over, out of traffic for safety reasons and conduct the appropriate investigation; and

c. **Duty Assignments** - All officers involved should have specific duty assignments while conducting the safety check deployment and these should be noted on the worksheet.

[R.I, 48] (emphasis added). The Operational Order does not set forth the guidelines itself. Compliance with Operational Order

12.1.1 apparently is required to avoid police running afoul of Prouse, Jones, and their progeny. However, such compliance is conspicuously absent in all respects from the Directed Patrol Worksheet in the instant case. [R.I, 30]. The supervisor's entire description of the "roadblock strategy" is as follows:

Stop motorists on Mandarin Rd. for a traffic safety check. Have a motorcycle with radar on each end of the check to monitor speed.

[R.I, 30]. Operational Order 12.1.1 was clearly violated by omissions from the Directed Patrol Worksheet. Furthermore, the substance of Operational Order 12.1.1, which in pertinent part specifies only detention techniques, was not even reviewed with the officers on the scene of the stop. [R.III, 55-56]. As a result, the State has in this case fallen short even of the showing found inadequate under the Fourth Amendment in Hartsfield.

Perhaps most critical to the analysis in this case is that vehicle selection procedures were never specified in writing. [R.I, 30]. Also, even if officers were instructed orally to stop every car, that instruction was neither reduced to writing nor followed, as officers on the scene used unbridled discretion to wave unknown numbers of cars through the roadblock unchecked. [R.II, 9-11, 34-37; III, 47]. The lack of reasonably specific guidelines for the roadblock in this case renders Mr. Campbell's stop even more fatally defective than that in Hartsfield, supra.

Moreover, the written instructions fail to indicate detention techniques or duty assignments as required by the Operational Order. Further, the scant written instructions set forth no

procedures for disposition of vehicles in express violation of State v. Jones. Accordingly, the roadblock at issue in this case was wholly discretionary, in violation of the Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section 12 of the Florida Constitution.

The majority opinion in Campbell questioned the viability of Jones on the basis that it was decided after the 1983 amendment to Article I, section 12 of the Florida Constitution which amendment requires Florida courts to interpret Article I, section 12 "in conformity with the Fourth Amendment to the United States Constitution, as interpreted by the United States Supreme Court." However, Article I, section 12 of the Florida Constitution did not affect the significance of the Jones decision. Indeed, this Court made clear in State v. Jones that the decision "rests solely on the federal constitution." Jones, supra at 435 n.1.

Likewise, State v. Jones is consistent with the United States Supreme Court's interpretation of the Fourth Amendment in regards to roadblocks. The U.S. Supreme Court in Michigan Department of State Police v. Sitz, 496 U.S. 444 (1990), upheld the constitutionality of Michigan's use of sobriety checkpoints. That checkpoint was operated using detailed statewide written guidelines described by the U.S. Supreme Court as follows:

Under the guidelines, checkpoints would be set up at selected sites along state roads. All vehicles passing through a checkpoint would be stopped and their drivers briefly examined for signs of intoxication. In cases where a checkpoint officer detected signs of intoxication, the motorist would be directed to a location out of the traffic flow where an

officer would check the motorist's driver's license and car registration and, if warranted, conduct further sobriety tests. Should the field tests and the officer's observations suggest that the driver was intoxicated, an arrest would be made. All other drivers would be permitted to resume their journey immediately.

Id. at 447. Because of the detail of such guidelines, the Court held the roadblock constitutional, specifically relying upon the fact that the roadblocks were "selected pursuant to the guidelines." Id. at 453. Therefore, Sitz properly stands for the proposition that the discretion of field officers must be limited by advance detailed written guidelines.

Similarly, in Merrett v. Moore, 58 F.3d 1547, suggestion of rehearing en banc pending, Case No. 93-2510 (11th Cir. 1995), the Eleventh Circuit held a roadblock for the purpose of drug interdiction and of ensuring compliance with driver's licensing and vehicle registration laws constitutional. The roadblock was operated under a joint operation plan, titled "Interdiction of Illegal Narcotics, North Florida," which was composed of detailed written guidelines regarding the procedures to be used during the roadblock. Id. Accordingly, Merrett bolsters the proposition that there must be detailed written guidelines to conduct a constitutionally valid roadblock. See State v. Sims, 808 P.2d 141 (Utah Ct. App. 1991); State v. Larson, 485 N.W.2d 571 (Minn. Ct. App. 1992); Hagood v. Town of Town Creek, 628 So.2d 1057 (Ala. Crim. App. 1993); Holt v. State, 887 S.W.2d 16 (Tex. Crim. App. 1994); see also United States v. Trevino, 60 F.3d 333 (7th Cir. 1995) ("what was dispositive in Sitz was that pursuant to neutral



guidelines uniformed officers conducting the checkpoint stopped every incoming vehicle, and were not at liberty to randomly decide which motorists would be stopped and which would not." (emphasis added).

**B. The Roadblock Was Surprising and Dangerous.**

The "safety checkpoint" was conducted in an unsafe and intrusive manner. Citizens were stopped without reasonable or even bare suspicion in some apparent hope of public education. The circumstances surrounding the roadblock illustrate that the roadblock was excessively intrusive and thus unreasonable. The roadblock was established in the 11800 block of Mandarin Road in Jacksonville, which is a residential area. [R.I, 4; II, 16-17]. Approximately eight or ten officers were assigned to the roadblock. [R.II, 7]. During the five hours of the roadblock's duration, [R.II, 24, 30], traffic was stopped both ways except for an unknown number of cars which were allowed to pass unchecked when traffic backed up. [R.II, 10-11, 34-37; III, 47]. Officers with radar equipment were stationed at each end of the roadblock to monitor speed. [R.II, 24].

In State v. Landfald, 571 So.2d 10, 11 (Fla. 2d DCA 1990), a roadblock initiated to apprehend drug users was determined to be unreasonable, because it was located in an essentially residential area. The court reasoned that the degree of intrusion upon the liberty interest of the individuals in that area was severe. Id. It was so severe indeed that the court held:

Interference in this kind of setting with individual liberty outweighs the state's undeniably high interest in interdicting the purveyors and users of cocaine, particularly in light of the fact that a seizure such as occurred in this case advances that interest only a slight degree.

Id. Similarly, such an intrusion upon an individual's liberty interest would certainly outweigh the State's interest in speeders and vehicle equipment violators. Additionally, the seizure of Mr. Campbell failed to advance at all the stated public interest relating to speeding and equipment safety.

Moreover, evidence established that the roadblock was conducted at night with no indication of adequate lighting. [R.II, 29]. The roadblock was conducted between two curves on Mandarin Road. [R.II, 17]. The roadblock was surprising and dangerous and, thus, excessively intrusive. State v. Jones, 483 So.2d 433, 439 (Fla. 1986) ("Police should provide both proper lighting and sufficient warning on the roadway in advance of the stop so as to reduce the threat of startling the drivers."). Although nighttime stops may be more effective for sobriety checks as drunk drivers are more prevalent at night, a roadblock to educate speeders and safety equipment violators would be no more effective at night than in daylight. Ingersoll v. Palmer, 743 P.2d 1299, 1315 (Cal. 1987); see State v. Patterson, 582 A.2d 1204 (Me. 1990) (roadblock for safety violation check was constitutional because it was conducted during daylight and did not involve a check for driver's license and registrations).

**C. Other Less Intrusive Alternatives to the Roadblock Were Available.**

The U.S. Supreme Court in Delaware v. Prouse, 440 U.S. 648, 659 (1979), determined that a discretionary spot check for driver's licenses and car registrations was not a "sufficiently productive mechanism to justify the intrusion upon Fourth Amendment interest which such stops entail." The Court found that a state could use less intrusive means that did not allow officers to use unconstrained discretion. "Many violations of minimum vehicle-safety requirements are observable, and something can be done about them by the observing officer, directly and immediately." Id. at 660. Vehicle safety requirements can be effectively monitored by routine patrol without such intrusive procedures as spot checks or discretionary roadblocks. Accordingly, the roadblock in the instant case was excessively intrusive as it lacked detailed written guidelines, was conducted in a manner as to be surprising and dangerous, and was unnecessary in light of other less intrusive alternatives.

CONCLUSION

For the foregoing reasons, specifically that the challenged roadblock constituted an unreasonable seizure in violation of the Fourth and Fourteenth Amendments to the United States Constitution and Article I, section 12 of the Florida Constitution, this Court should reverse the district court's order affirming the denial of Mr. Campbell's dispositive Motion to Suppress Fruits of Illegal Arrest and vacate his conviction.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to **Stephen R. White, Esquire**, Assistant Attorney General, The Capitol, Tallahassee, Florida 32399-1050, by mail, this 20 day of February, 1996.

Richard W. Smith  
ATTORNEY