SC24-1088

In the Supreme Court of Florida

STATE OF FLORIDA,
Petitioner,

v.

BRYAN ALLEN REPPLE,
Respondent.

ON DISCRETIONARY REVIEW FROM THE
SIXTH DISTRICT COURT OF APPEAL
NO. 6D23-1448

INITIAL BRIEF ON THE MERITS

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STATEMENT OF THE ISSUES

1. Whether police officers who arrest a suspect for DUI in their jurisdiction exceed their statutory authority by transporting the suspect to a breath-test facility outside their jurisdiction.

2. Whether the exclusionary rule requires suppressing evidence obtained beyond a police officer's territorial jurisdiction as defined by statute.

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STATEMENT OF THE CASE AND FACTS

Respondent Bryan Repple faces prosecution for driving under the influence in Maitland, Florida. The trial court suppressed the incriminating breath-test results on the ground that the arresting Maitland police officer exceeded his statutory authority by transporting Repple to the county breath-test facility outside of Maitland. The Sixth District affirmed and certified conflict with the Fifth District's decision in *State v. Torres*, 350 So. 3d 421 (Fla. 5th DCA 2022).

A. Legal background governing municipal law-enforcement powers.

The Florida Constitution authorizes the Legislature to create municipalities and establish their powers—extraterritorial or otherwise—by general or special law. *See* Art. VIII, § 2, Fla. Const. The Legislature chartered the City of Maitland in 1959, vesting it with the authority to "maintain a department of police" and "exercise full police powers" "for the preservation and enforcement of law and order within said City." Ch. 59-1475, §§ 34(15), 50, Laws of Fla. After the 1968 Constitution authorized municipal home rule in Florida, *see* Art. VIII, § 2(b), Fla. Const., the Legislature enacted the Municipal Home Rule Powers Act, giving municipalities all "governmental,

corporate, and proprietary powers to enable them to conduct municipal government" and authorizing them to "exercise any power for municipal purposes, except when expressly prohibited by law." § 166.021(1), Fla. Stat. The statute defines "municipal purpose" as "any activity or power which may be exercised by the state or its political subdivisions," including law enforcement. *Id.* § 166.021(2). Thus, municipalities enjoy the full law-enforcement power of the State when people violate the law in their jurisdictions. That grant of authority must "be so construed as to secure for municipalities the broad exercise of home rule powers." *Id.* § 166.021(4).

Additionally, "[t]he police department of each chartered municipality shall enforce the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the municipality." *Id.* § 316.640(3)(a). When arresting a suspect for driving under the influence, "a law enforcement officer who has reasonable cause to believe such person was driving . . . while under the influence of alcoholic beverages" may request administration of a "chemical or physical breath test . . . incidental to [that] arrest" to determine "the alcoholic content of [the suspect's] blood or breath." *Id.* § 316.1932(1)(a)1.a. Any person who "accepts the privilege . . . of operating a motor

vehicle" in Florida is "deemed to have given his or her consent to submit to" such a test and must be warned that "failure to submit . . . will result in the suspension of the person's privilege to operate a motor vehicle." *Id.*

B. A breath test conducted in neighboring Orlando after Repple's arrest in Maitland confirms he committed DUI.

Around 2:00 a.m., Maitland police stopped Repple for speeding and quickly suspected him of driving under the influence. Trial R.18. Officer Frank Banos observed that Repple's eyes were "blood shot and glassy," his speech was "slurred," and he smelled of "the heavy odor of alcohol[]." *Id.* While performing field sobriety exercises, Repple showed signs of impairment and Officer Banos arrested him for DUI. *Id.* at 18–19.

Officer Banos transported Repple to the Orange County DUI Center in Orlando and read him the implied-consent warning. *Id.* at 19. Repple submitted to two breath tests, which showed a breath-alcohol content of .180 and .178 respectively. *Id.* For reference, operating a motor vehicle with a breath-alcohol level of .08 is unlawful and sufficient under Florida law to give rise to a presumption of

impairment. *See* § 316.1934(2)(c), Fla. Stat. Officer Banos then transported Repple to the Orange County Jail for booking. Trial R.19.

C. The Sixth District affirms the trial court's suppression of the breath results.

The State charged Repple with driving under the influence. *Id.* at 17. Repple moved to suppress the breath-test results on the grounds that Officer Banos, a Maitland police officer, lacked statutory authority to read the implied-consent warning and request a breath test from the Orange County DUI Center because it was in Orlando rather than Maitland. *Id.* at 43–44. The trial court granted the motion and suppressed the breath-test results. *Id.* at 324.

The State took an interlocutory appeal to the Fifth District. *Id.* at 328–29. While the appeal was pending, the Fifth District transferred the case to the newly created Sixth District Court of Appeals. DCA R.65.

On appeal, the State argued that (1) when municipal police officers arrest someone for DUI in their jurisdiction, they have the authority to request a breath test under the implied-consent statute even if the facility is in a neighboring city, *id.* at 24–25, and (2) even

if officers lacked such authority, suppression of the test results is not an available remedy, *id.* at 25.

The Sixth District rejected both arguments, concluding that Officer Banos was "without the power" to request a breath test from the Orange County DUI Center and that as a "remedy," the test results "must be suppressed." *Id.* at 147–48, 152. Because the Fifth District had held in *Torres* that a police officer who arrests a DUI suspect in his jurisdiction retains the authority to request a breath test from a facility in a neighboring jurisdiction, the court certified conflict with *Torres*. *Id.* at 158.

The State sought discretionary review in this Court and moved to stay the mandate in the Sixth District. *Id.* at 160, 162–63. The Sixth District stayed its mandate, and this Court accepted jurisdiction. *Id.* at 168–69.

SUMMARY OF ARGUMENT

The Sixth District's decision, if permitted to stand, hamstrings local law enforcement in their ability to enforce DUI laws in their jurisdictions, which they have a statutory *duty* to do. *See* § 316.640(3)(a), Fla. Stat. The Florida Legislature has granted municipal police officers the full law-enforcement power of the State to

enforce the law in their municipalities. Exercising that authority sometimes requires an incidental exercise of authority outside the municipality. For example, officers frequently must transport an arrestee for booking at a county jail in another city. Sometimes they must request a breath test from a county breath-test facility in a neighboring city as an incident to a DUI arrest in their municipality. These limited exercises of authority are necessary incidents to the broad authority officers enjoy to enforce the law in their jurisdiction. If municipal officers could not transport arrestees for a breath test outside the city, their ability to enforce DUI laws in their cities would be crippled, particularly if they did not have a breath-test facility in their city. And if, as would seem to follow from the Sixth District's decision, officers transporting arrestees to a county jail had to release their prisoners at the city line, they could not effectively enforce any law in their municipalities.

Apart from the merits, the Sixth District compounded the error by holding that evidence obtained outside an officer's jurisdiction without statutory authorization must be suppressed. No statute or constitutional provision provides for suppression as a remedy for an officer's unlawful extraterritorial exercise of authority. And the

exclusionary rule is a poor fit for enforcing limits on extraterritorial exercises of municipal authority; those limits exist to protect the autonomy of other municipalities, not the interests of criminal defendants. In other words, any statutory limitations on an officer's ability to act extraterritorially do not create private rights enforceable through the exclusionary rule. Imposing the significant societal costs of the exclusionary rule was therefore unwarranted even if the court had the power to extend that remedy without a textual basis for doing so.

The Court should quash the Sixth District's decision on either ground.

STANDARD OF REVIEW

"Statutory and constitutional construction are questions of law subject to a de novo review." *W. Fla. Reg'l Med. Ctr. v. See*, 79 So. 3d 1, 8 (Fla. 2012).

ARGUMENT

The Sixth District erred in requiring independent statutory authorization for a municipal police officer to request a breath test from the county breath-test facility in a neighboring jurisdiction. The broad authority the Florida Legislature granted municipal officers to

enforce the law in their municipalities includes incidental exercises of extraterritorial authority like transporting an arrestee to a county jail or requesting a breath test from a county breath-test facility. The Sixth District then compounded that error by extending the already-dubious, judge-made exclusionary rule to remedy the supposed violation of a statutory limit on a police officer's territorial jurisdiction.

I. Municipal police officers who make a DUI arrest in their jurisdiction may request a breath test from a facility outside their jurisdiction as an incident to that arrest.

On the merits, the Sixth District's decision ignores the basic realities and responsibilities of municipal law-enforcement officers conducting DUI arrests within their city limits. Its approach should be rejected.

The Legislature has conferred on municipalities all "governmental, corporate, and proprietary powers to enable them to conduct municipal government" and authorized them to "exercise any power for municipal purposes, except when expressly prohibited by law." § 166.021(1), Fla. Stat. As reflected in Maitland's original charter, that broad power includes the authority to "maintain a department of police" to "exercise full police powers" "for the preservation and enforcement of law and order within [the] City." Ch. 59-1475,

§§ 34(15), 50, Laws of Fla. Preserving and enforcing law and order within a city rarely requires exercising any power outside of that city. So absent statutory authorization, "law enforcement officials" generally may not, when outside their jurisdiction, "us[e] the powers of their office to observe unlawful activity or gain access to evidence not available to a private citizen." *Phoenix v. State*, 455 So. 2d 1024, 1025 (Fla. 1984).

But that does not mean that any official act in another jurisdiction is categorically prohibited unless separately authorized by statute. Nothing in the grant of all governmental powers "to conduct municipal government" categorically prohibits all extraterritorial acts. § 166.021(1), Fla. Stat. Effectively "conduct[ing] municipal government" may occasionally require the exercise of police power in other jurisdictions. That is, a police officer may at times need to take an official action in another jurisdiction to effectively "preserv[e] and enforce[] . . . law and order within" his jurisdiction. Ch. 59-1475, §§ 34(15), 50, Laws of Fla.

That is most often the case when the extraterritorial act is a necessary incident to the officer's law-enforcement activities in his own jurisdiction. When police officers make arrests in their

jurisdiction, for example, they frequently must incidentally transport the suspect out of their jurisdiction to a county jail. That happened in this case when Maitland police arrested Repple for DUI in Maitland and eventually transported Repple for booking at the Orange County Jail in Orlando. Although that transport required the exercise of some official authority outside of Maitland, it was incidental to an arrest performed in Maitland. *See Dolan v. State*, 185 So. 2d 185, 186 (Fla. 3d DCA 1966) (noting that transporting a defendant for detention is "a part of the arresting process"). A police officer's authority to make arrests in his jurisdiction would be hollow if he could not transport the arrestee to jail in another town because he would have to "relinquish lawful custody of [his] prisoner at the town line." *Torres*, 350 So. 3d at 426 (quoting *State ex rel. Town of Portsmouth v. Hagan*, 819 A.2d 1256, 1261 (R.I. 2003)). That incidental exercise of extraterritorial authority is thus fairly encompassed within the officer's authority to exercise the full police power to enforce the law in his jurisdiction.

Similarly, requesting a breath test at the Orange County DUI Center, which operates as the breath-test facility for the entire county, was a crucial incident of Repple's DUI arrest in Maitland. The

implied-consent statute requires that any breath test be conducted "*incidental* to a lawful arrest." § 316.1932(1)(a)1.a., Fla. Stat. (emphasis added). The test must be requested by "a law enforcement officer who has reasonable cause to believe" that the defendant committed DUI, *id.*—most likely the arresting officer, *see* Trial R.24 (implied-consent warning filled out by "arresting officer"). Indeed, a breath test is simply "part of the booking procedure when a defendant is arrested for DUI." *State v. Hoch*, 500 So. 2d 597, 603 (Fla. 3d DCA 1986). Requesting a breath test from the county breath-test facility is thus a necessary byproduct of the officer's authority to make DUI arrests in his jurisdiction.

Further emphasizing the point, municipal police officers have a statutory *duty* to "enforce the traffic laws of this state on all the streets and highways" in their municipalities. § 316.640(3)(a), Fla. Stat. Officers could not effectively perform that duty if they were prevented from collecting the most probative evidence in a DUI case—a blood or breath test—merely because doing so required requesting the test from a facility in a neighboring jurisdiction. Breath tests are time-sensitive because the effects of alcohol begin to vanish within

just a few hours.[1] For an officer making a DUI arrest, a breath test must be conducted quickly to accurately reflect the driver's alcohol content at the time he was driving. Forcing city officers to forgo collecting that probative evidence because the facility is operated by the county—as a service to municipal law-enforcement agencies, no less—would severely hamper their ability to enforce DUI laws within their jurisdictions and thus compromise their statutory duty to enforce those laws. Fulfilling their duty to enforce DUI laws in their municipalities necessarily includes the incidental authority to request a breath test from the facility that serves their jurisdiction, regardless of its location.

That is why state courts around the country have held that an officer's authority to conduct law enforcement in his jurisdiction includes the authority to transport "a prisoner already in lawful custody to another municipality to carry out legitimate law enforcement duties," like conducting a breath test. *Hagan*, 819 A. 2d at 1261;

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[1] Jonathan Strum, *How Long Does Alcohol Stay in Your System? How Fast Can You Sober Up?*, The Recovery Village Columbus (last accessed Apr. 21, 2025), https://tinyurl.com/3yt6y7bn; *Sobering Up*, Southern Illinois University Student Health Services (last accessed Apr. 21, 2025), https://tinyurl.com/ye27bneh.

accord Pickering v. State, 412 S.W. 3d 143, 149 (Ark. 2012); *State v. Stevens*, 620 A. 2d 789, 795 (Conn. 1993) (collecting cases).

In reaching a contrary conclusion here, the Sixth District failed to appreciate "the practical realities of police investigations into unlawful conduct." *Hagan*, 819 A. 2d at 1261. The Maitland police here were not enforcing state law in Orlando—they were enforcing the law in Maitland against a defendant who committed a crime there. Doing so required them to incidentally use a limited amount of authority outside their jurisdiction—but only enough to effectuate their authority to bring the criminal in their jurisdiction to justice. That exercise of authority was part and parcel of their authority to enforce state law in their jurisdiction.

The availability of "mutual aid agreements" does not change this analysis. *See* § 23.1225, Fla. Stat. By statute, municipalities may sign "written agreement[s] between two or more law enforcement agencies" for the purposes of "permit[ting] voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines," or "rendering of assistance in a law enforcement emergency." *Id.* § 23.1225(1)(a)-(b), (3). Examples of such arrangements include "establishing a joint city-county task force on narcotics smuggling"

and "authorizing state university or Florida College System institution police officers to enforce laws within a specified jurisdictional area." *Id.* § 23.1225(1)(a). And these agreements protect municipalities from neighboring intrusions by specifying, among other details, "the procedures for requesting and for authorizing assistance," "command and supervisory responsibility," "time limit[s]," and "compensation or reimbursement to the assisting agency or entity." *Id.* Put another way, when law-enforcement agencies wish to cooperate in joint efforts that entail officers engaging in duties outside their jurisdictional lines, they may do so by express agreement.

But Section 23.1225 does nothing to limit the ordinary ability of officers engaged in enforcement activities in *their own* jurisdictions to take steps in other jurisdictions that are incidental to those activities. Indeed, that section endeavors to expand a law-enforcement agency's authority, not to constrain authority conferred elsewhere by law and logic.

The Court should quash the Sixth District's decision on that basis.

II. The exclusionary rule does not apply to evidence obtained outside an officer's jurisdiction without statutory authorization.

Regardless of the Maitland officer's authority to request Repple's breath test, the exclusionary rule does not apply to evidence obtained in violation merely of the statutory limits on territorial jurisdiction. Thus, even if the Maitland officer did not have statutory authority to request the breath test at the county facility in Orlando, the trial court erred in suppressing Repple's incriminating breath-test results.

A. Statutory text does not authorize suppression as a remedy in this context.

As the Sixth District explained, the scope of municipal police officers' authority to act under the color of their office is governed by statute. DCA R.148–50. A claim that an officer acted without authority is simply a claim that the officer failed to comply with the statutes governing the scope of his authority.

Whether the exclusionary rule applies to a statutory violation "fall[s] within the purview of the Legislature." *Jenkins v. State*, 978 So. 2d 116, 130 (Fla. 2008). This Court will not manufacture a suppression remedy when "the plain language of [the statute] does not expressly provide for exclusion of evidence as a remedy." *Id.*

Here, none of the statutes setting the bounds of municipal police officers' authority "list[s] the exclusionary rule as a remedy" for exceeding that authority. *Id.* Nothing in Maitland's original charter required suppression of extraterritorially obtained evidence. *See* Ch. 59-1475, Laws of Fla. Nor does Section 166.021, which establishes the powers of Florida municipalities, say anything of excluding evidence obtained in excess of that authority. And Section 23.1225, which allows police departments to enter mutual-aid agreements with other departments to govern the exercise of authority in other jurisdictions, does not provide for suppressing evidence secured in violation of those agreements. Because the Constitution gives the Legislature—not the Judiciary—the authority to regulate municipal officers' exercise of state power, *see* Art. VIII, § 2(b)–(c), Fla. Const., this Court should "not infer" a remedy the Legislature has not provided, *Jenkins*, 978 So. 2d at 130.

Several of this Court's precedents confirm that principle. In *Jenkins*, the Court declined to apply the exclusionary rule to violations of Florida's strip-search statute because "the plain language of [the statute] d[id] not expressly provide for exclusion of evidence as a remedy." 978 So. 2d at 130. And though the majority agreed with the

dissent that the exclusionary rule "would further the goal of deterrence of further police misconduct," it determined that the "benefits" of suppression "are totally irrelevant" when deciding whether exclusion "applies to a specific state statute." *Id.* Whatever outcome the Court might "prefer," it was the "purview of the Legislature," not the judiciary, to fashion an exclusionary rule. *Id.*

This Court reached the same result in *Lukehart v. State*, 70 So. 3d 503 (Fla. 2011). At issue there was whether a violation of the Baker Act, which allows for civil commitment, required the suppression of evidence. Echoing *Jenkins*, the Court wrote that "the legislature did not express a clear and unequivocal intent to permit suppression of evidence for a violation of the Baker Act." *Id.* at 519. The defendant was therefore not entitled to suppress the evidence that police found after an allegedly improper Baker Act detention. *Id.*[2]

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[2] This Court seemingly reached a contrary result in *State v. Cable*, 51 So. 3d 434, 442–44 (Fla. 2010) (holding that the exclusionary rule applies to violations of Florida's statutory knock-and-announce rule). But as the State has argued in *State v. Times*, *see* Init. Br., No. SC2024-0647, at *13–26 (filed Oct. 1, 2024), *Cable* is clearly erroneous and should be overruled. And for the reasons described below, there are important differences here that reflect that suppression is a poor fit when an officer exceeds the scope of his extraterritorial authority, which involves the violation of no individual right.

B. Adopting the exclusionary rule would depart from history and tradition.

Applying the exclusionary rule similarly draws no support from history or tradition. The exclusionary rule originated as a 20th century judicial innovation. The common law "had no exclusionary rule." *State v. Cable*, 51 So. 3d 434, 444 (Fla. 2010) (Polston, J., joined by Labarga, J., dissenting) (citing 8 John Henry Wigmore, *A Treatise on the Anglo–American System of Evidence in Trials at Common Law* § 2183 (3d ed. 1940)). Nor does it come from the U.S. Constitution. *Davis v. United States*, 564 U.S. 229, 236 (2011). Historically, "[e]vidence which [wa]s pertinent to the issue [wa]s admissible, although it may have been procured in an irregular, or even in an illegal, manner." *Adams v. New York*, 192 U.S. 585, 596 (1904); *accord Cable*, 51 So. 3d at 444 (Polston, J., dissenting).

That universal historical understanding extended over a century past the American founding until, "for the first time in 1914," the U.S. Supreme Court applied the exclusionary rule to evidence seized in violation of the Fourth Amendment. *Wolf v. Colorado*, 338 U.S. 25, 28 (1949) (discussing *Weeks v. United States*, 232 U.S. 383 (1914)). The first mention of the exclusionary rule in this Court came

eight years later when, in a separate opinion, Chief Justice Browne urged the Court in dicta to adopt the exclusionary rule for unreasonable searches and seizures under the Florida Constitution—not because the Constitution provided such a rule, but because he thought it "a problem in morals" to admit unlawfully seized evidence. *Atz v. Andrews*, 94 So. 329, 332 (Fla. 1922) (opinion of Browne, C.J.). The Court took his advice three years later, adopting the exclusionary rule for violations of the Florida Constitution's Fourth Amendment counterpart. *See Hart v. State*, 103 So. 633, 635–36 (Fla. 1925). Simply put, the exclusionary rule is nothing more than a "judicially created remedy," *Savage v. State*, 588 So. 2d 975, 978 (Fla. 1991), born of "judicial decisional policy," *State v. Dodd*, 419 So. 2d 333, 335 (Fla. 1982).

This Court of course must continue to apply the exclusionary rule to evidence seized in violation of the U.S. Constitution where Supreme Court precedent so requires, no matter how dubious. But it need not extend the project to violations of state law. *See Virginia v. Moore*, 553 U.S. 164, 174 (2008) (discussing states' freedom to reject the exclusionary rule for state-law violations). Nothing in Article VIII, Section 2 purports to require suppression of evidence obtained

outside an officer's jurisdiction without statutory authorization. On top of that, the Florida Constitution expressly requires exclusion of evidence obtained in violation of other provisions. *See* Art. I, § 12, Fla. Const. Article VIII's failure to do so therefore forecloses any exclusion remedy. *See BellSouth Telecomms., Inc. v. Meeks*, 863 So. 2d 287, 291 (Fla. 2003) (When a provision appears "in one section" but not "in another," "courts will deem the difference intentional and will assign meaning to the omission.").

C. The purposes of the exclusionary rule do not justify its use here.

But even if the Court were open to manufacturing a remedy that the Constitution and Florida Statutes do not prescribe, it would be unwarranted in this context. Courts should avoid "reflexive[ly]" applying the exclusionary rule any time police violate some law in obtaining evidence. *Davis*, 564 U.S. at 238. The exclusionary rule "exacts a heavy toll on both the judicial system and society at large." *Id.* at 237. "It almost always requires courts to ignore reliable, trustworthy evidence," and "its bottom-line effect, in many cases, is to suppress the truth and set the criminal loose in the community without punishment." *Id.* That "potent remed[y]," *Moore*, 553 U.S. at 174,

should apply "only as a 'last resort'"—when the "deterrence benefits of suppression . . . outweigh its heavy costs," *Davis*, 564 U.S. at 237.

Those heavy costs are not warranted here because suppression does not serve "the interest protected by the" statutory limits on a police officer's territorial jurisdiction. *Hudson v. Michigan*, 547 U.S. 586, 593 (2006). In the Fourth Amendment context, the point of the right to be free from unreasonable searches and seizures is to "shield [certain potential evidence] from the government's scrutiny." *Id.* Exclusion thus at least logically relates to the interest protected. *Id.* But "[t]he interests protected by the [limit on extraterritorial authority] are quite different." *Id.* Jurisdictional limits on police authority do not exist to enable suspects to "shield[] . . . potential evidence from the government's eyes." *Id.* Indeed, they do not exist to protect any interests of criminal defendants. They instead allocate enforcement responsibilities among different governmental actors. Repple has no reasonable interest in this allocation—in whether his breath test is requested by an employee of the City of Maitland or Orange County.

If anything, limits on exercises of police authority in other jurisdictions are designed merely to protect the interests of the law-enforcement agencies with authority in those jurisdictions. *See State v.*

Vrabel, 347 P.3d 201, 813 (Kan. 2015) ("[I]t is apparent that the statutory limitations on the jurisdiction of city officers w[ere] put in place to protect the local autonomy of neighboring cities and counties, rather than to create an individual right . . . ."); *People v. McCrady*, 540 N.W. 2d 718, 721 (Mich. Ct. App. 1995) ("[T]he purpose of [limiting extraterritorial authority] is not to protect the rights of criminal defendants, but rather to protect the rights and autonomy of local governments."). That design is evident in the statutes authorizing extraterritorial exercises of authority in certain circumstances. The "fresh pursuit" statute, which authorizes officers to arrest suspects in other jurisdictions if the pursuit began in their jurisdiction, requires the arresting officer to "immediately notify the officer in charge of the jurisdiction in which the arrest is made" if the arrest occurs in a different county. § 901.25(3), Fla. Stat. Similarly, Section 901.252, which authorizes municipal officers to make arrests outside their municipality on property owned or leased by their municipality, requires the arresting officer to "immediately call a law enforcement officer with jurisdiction over the property." § 901.252(1), Fla. Stat. And the Mutual Aid Act authorizes officers to exercise authority in any jurisdiction as long as they have a written agreement to that effect with the

law-enforcement agency over that jurisdiction. § 23.1225, Fla. Stat. Those statutes make clear that limits on extraterritorial exercises of police power exist to prevent law enforcement officers from encroaching on the authority of other jurisdictions. Because those interests "have nothing to do with the seizure of evidence," the exclusionary rule is an inappropriate remedy for exceeding those limits. *Hudson*, 547 U.S. at 594.

With that in mind, the remedy of exclusion is particularly perverse in this context. Limits on officers' extraterritorial authority preserve the interests of neighboring municipalities. But no municipality benefits from having more drunk drivers on the streets—precisely the effect of the Sixth District's holding. DUI is a "serious and potentially deadly crime" that claims tens of thousands of lives every year. *Virginia v. Harris*, 558 U.S. 978, 978–79 (2009) (Roberts, C.J., dissenting from denial of certiorari). Getting those drivers off the road is a "paramount interest" of every municipality. *Birchfield v. North Dakota*, 579 U.S. 438, 464 (2016).

By insisting on a remedy that harms Florida cities and towns collectively, the Sixth District failed to consider the exclusionary

rule's poor fit for the interests that extraterritorial limits are designed to protect.

Nor did the Sixth District explain why the exclusionary rule was appropriate here.[3] It simply cited other district court opinions that provided for suppression of evidence obtained outside an officer's jurisdiction without statutory authorization. DCA R.147–48 (citing *Collins v. State*, 143 So. 2d 700 (Fla. 2d DCA 1962), and *Knight v. State*, 154 So. 3d 1157, 1160 (Fla. 1st DCA 2014)). But as far as the State is aware, this Court has never been presented with whether the exclusionary rule applies in that context.[4] As explained, no statutory or

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[3] At the end of its opinion, the Sixth District suggested that declining to apply the exclusionary rule "would undermine 'the right of the people to be secure in their persons, houses, papers and effects.'" DCA R.158 (quoting *Collins v. State*, 143 So. 2d 700, 703 (Fla. 2d DCA 1962)). It is unclear what the court meant by this apparent reference to the Fourth Amendment. Repple has not asserted a Fourth Amendment violation. He disputes neither that his arrest was supported by probable cause nor that he consented to the breath test. His sole claim is that the officer who requested the breath test lacked authority to do so under Florida law. The reasonableness of a search or seizure under the Fourth Amendment does not turn on the officer's authority under state law to conduct the search or seizure. "[I]t is not the province of the Fourth Amendment to enforce state law." *Moore*, 553 U.S. at 172, 178.

[4] This Court has in the past considered appeals of orders on motions to suppress premised on an officer's unlawful exercise of extraterritorial authority. *See Ramer v. State*, 530 So. 2d 915 (Fla.

constitutional text supports those district courts' extension of the exclusionary rule to this context. And suppression is a gross mismatch for an officer's exceeding his authority to obtain evidence in another jurisdiction. The district courts' "indiscriminate application" of the exclusionary rule must be rejected. *Hudson*, 547 U.S. at 591.

CONCLUSION

The Court should quash the Sixth District's decision.

1988); *Phoenix*, 455 So. 2d 1024. But in those cases, the only issue before the Court was whether the exercise of authority was lawful. The Court did not consider whether the exclusionary rule applied.

Dated: April 21, 2025 Respectfully submitted,

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I certify that a copy of the foregoing was furnished via the e-Filing Portal on this 21st day of April 2025, to the following:

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CERTIFICATE OF COMPLIANCE

I certify that this brief was prepared in 14-point Bookman font, in compliance with Florida Rule of Appellate Procedure 9.045(b)(a)(2) and contains 4,950 words, as required by Florida Rule of Appellate Procedure 9.210(a)(2)(A).

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