

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

NO. 2021 KW 1134

VERSUS

DETRENTA D. LEE

DECEMBER 06, 2021

In Re: State of Louisiana, applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 06-19-0107.

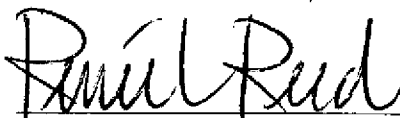
BEFORE: McDONALD, LANIER, AND WOLFE, JJ.

WRIT GRANTED. The granting of the motion to suppress physical evidence is hereby reversed. The trial court's legal finding that the violation of La. R.S. 32:322(B) failed to provide probable cause for the traffic stop was erroneous. The officer had a particularized and objective basis for suspecting the defendant of criminal activity, i.e., probable cause to believe the defendant had violated La. R.S. 32:322(B). Under the law, "the subjective beliefs or expectations of the detaining officer" are irrelevant. **State v. Waters**, 2000-0356 (La. 3/12/01), 780 So.2d 1053, 1056 (per curiam); **State v. DuPont**, 2014-0497 (La. App. 1st Cir. 11/7/14), 2014 WL 5801488 at *3, writ denied, 2014-2595 (La. 9/18/15), 178 So.3d 145, cert. denied, 577 U.S. 1121, 136 S.Ct. 985, 194 L.Ed.2d 8 (2016); see Whren v. United States, 517 U.S. 806, 813, 116 S.Ct. 1769, 1774 ("[s]ubjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis."). Thus, the trial court's finding that the officer lacked probable cause to stop the defendant for violating La. R.S. 32:322(B) because "it was extremely dark outside," and "it was extremely reasonable to have bright lights on" was irrelevant.

Further, under the totality of the circumstances, the trial court's conclusion that the State failed "to overcome [its] burden considering the fact that the consent was not given and there was no waiver[,]" was a clear abuse of discretion. See State v. Jernigan, 390 So.2d 1306, 1307-08 (La. 1980) ("the vehicle was in a place and at a time when it was necessary to remove it for both reasons of safety and security.").

JMM
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EW

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FOR THE COURT