



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. PD-0720-22

THE STATE OF TEXAS

v.

TRAVIS LAYTON SPIVEY, Appellee

ON APPELLEE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE TENTH COURT OF APPEALS
MCLENNAN COUNTY

Per curiam.

OPINION

Appellee was indicted for possessing four grams or more, but less than 200 grams, of methamphetamine based on evidence seized after a canine sniff of Appellee's vehicle following a traffic stop. Tex. Health & Safety Code Ann. § 481.115(d). Appellee filed a motion to suppress arguing, in part, that the warrantless search and seizure of his property

was without reasonable suspicion or probable cause and, alternatively, that officers unreasonably prolonged the initial detention. *See Lerma v. State*, 543 S.W.3d 184, 191-93 (Tex. Crim. App. 2018) (a traffic stop may not be prolonged beyond the time necessary to effectuate the purpose of the stop). The trial court granted Appellee’s motion to suppress. The State appealed.

On appeal, the State argued that the trial court abused its discretion by granting the motion to suppress arguing the trial court failed to consider the totality of the circumstances when determining whether there was reasonable suspicion to prolong the traffic stop. The court of appeals agreed and reversed the trial court’s order granting the motion to suppress. *State v. Spivey*, No. 10-22000111-CR, 2022 WL 5239684, at *4 (Tex. App. – Waco Oct. 5, 2022, pet. granted) (not designated for publication). Appellee filed a petition for discretionary review arguing that the court of appeals erred in its opinion below. After considering the parties’ briefs and the record, we conclude that our decision to grant review was improvident. We therefore dismiss Appellee’s petition for discretionary review as improvidently granted.

Delivered: April 24, 2024

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