SUPREME COURT NO. 97282-6

NO. 77038-1-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

CARMEN LEE,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SNOHOMISH COUNTY

The Honorable Richard Okrent, Judge
The Honorable Anita Farris, Judge

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER/COURT OF APPEALS DECISION

Petitioner Carmen Lee seeks review of the Court of Appeals decision in State v. Lee, ___ Wn. App. 2d ___, 435 P.3d 847 (2019) (Appendix A, slip op.), following denial of reconsideration on May 1, 2019 (Appendix B).

B. ISSUES PRESENTED FOR REVIEW

1a. Was Lee required to present a Gunwall[1] analysis to rely on preexisting state law holding that officers must have reasonable suspicion of criminal activity before investigating a vehicle passenger?

1b. Under preexisting state law, does article I, section 7 require officers to articulate reasonable suspicion before investigating a passenger in a lawfully stopped vehicle notwithstanding federal Fourth Amendment jurisprudence that allows any passenger investigation as long as the duration of the stop is not measurably extended?

2. Under article I, section 7, must officers articulate an objective safety rationale before ordering a passenger out of a car or searching her belongings?

3. Under article I, section 7, where police have obtained consent to search from an individual possessing equal control over a vehicle that is shared with an occupant who is present able to object, must police also obtain the other occupant's consent before any search may begin?

[1] State v. Gunwall, 106 Wn.2d 54, 720 P.2d 808 (1986).

C. STATEMENT OF THE CASE

The charge of possession of a controlled substance with intent to deliver arose from a roadside search of vehicle passenger Lee and her belongings, which disclosed heroin, methamphetamine, and oxycodone. CP 82, 87. Lee moved to suppress this evidence before trial.

On July 7, 2015, Officer Garry Tilleson stopped a vehicle with a for equipment infractions. 1RP[2] 5. Detective Ross Fryberg arrived at the scene shortly after the stop. 1RP 6, 61-62. The car was driven by Lee's husband, Michael Peterman; Lee was seated in the front passenger seat. 1RP 6. Tilleson discovered Peterman's license was suspended and that he was therefore subject to arrest. 1RP 6. Tilleson arrested Peterman and stated Peterman gave permission to search the vehicle. 1RP 8.

The officers then contacted Lee, who had remained in the car. 1RP 38. They requested and obtained her identification. 1RP 8. They did a "routine driver's check and she also came back as a convicted felon." 1RP 8. However, her license was valid. 1RP 18-19. Lee testified that officers retained her ID throughout the remainder of the encounter; officers could not recall whether they retained her ID. 1RP 78-79, 82, 102.

[2] Lee refers to the verbatim reports of proceedings as follows: 1RP—consecutively paginated transcripts of October 6 and 11, 2016; 2RP—consecutively paginated transcripts of January 26, March 10 and 23, April 21, and June 22, 2017; 3RP—transcript dated March 28, 2017.

Officers then ordered Lee out of the car so they could "inventory" it, stating they believed they might eventually impound the vehicle. 1RP 10, 38-39. Yet officers also stated they did not suspect Lee of any crime and there was nothing suspicious about her demeanor, such as being under the influence of alcohol or drugs. 1RP 31-32, 39, 55, 84. Nor did they claim to request her identification for any reason other than ensuring she was a potential driver. 1RP 17, 39-40, 50. As Tilleson testified, "if she had a valid license we would likely release the vehicle to her." 1RP 9. Lee had a valid license. 1RP 18-19. Yet officers requested the vehicle be towed slightly more than 10 minutes after the stop was initiated. 1RP 40.

Lee stated she felt compelled to comply with Tilleson's command to exit the vehicle. 1RP 103. When she got out, Fryberg noted "an obscure lump near her clavicle . . . maybe in the bra area" and asked about it. 1RP 68. Fryberg said Lee "kind of deflected and redirected the question. She was a little frazzled." 1RP 68. Fryberg said Lee then manipulated the item so that it was no longer visible. 1RP 68, 86.

Lee left her purse in the car when she got out. 1RP 9, 67. Both officers testified they would not allow Lee to remove her purse without searching it, citing officer safety concerns about a concealed weapon. 1RP 10, 55-56, 67-68. However, neither officer could articulate any basis for suspecting Lee of crime or presenting any danger. 1RP 31-32, 84.

Officers began to question Lee about the contents of the purse, telling Lee they had a basis to search her purse given her prior drug conviction. 1RP 11, 30. When they asked her about whether there was anything in the purse they "should be concerned about," officers stated she "looked at the purse several times and looked ack at me and she looked at the purse and looked back at me." 1RP 11, 69. The officers said they suspected there might be something illicit in the purse. 1RP 11, 69.

Based on the questioning about the purse and officers' representations that they could search the purse based on her prior drug conviction, Lee "advised that there was a small amount of heroin in the purse" and, according to officers, thereafter consented to the search of the purse. 1RP 11-12, 69. In contrast, Lee testified she never consented to the search of her purse and that she repeatedly told officers she was uncomfortable with the search. 1RP 104-05.

Upon searching the purse, officers found roughly three ounces of heroin and approximately 20 grams of methamphetamine. 1RP 13. Police also recovered a small plastic baggy containing a brown tar-like substance, which officers believed was heroin from Lee's bra. 1RP 16, 72.

Lee moved to suppress the evidence prior to trial, which the trial court denied. The trial court found that Lee ultimately consented to or acquiesced in the search of her belongings. CP 89 (finding of fact 10);

1RP 134-35. Although officers had clearly stated they did not suspect Lee of criminal activity or of dangerousness, the trial court found that officers legitimately instructed Lee to exit the vehicle to allow the search to proceed because that was the "usual practice." CP 90 (finding of fact 12). The trial court also found that because Lee's purse "could have easily concealed a weapon," allowing Lee to leave the scene without searching the purse "would have created a danger to officers involved," despite officers' testimony that they perceived no danger. CP 90 (finding of fact 14). Again, though officers stated they perceived no danger, the trial court found that the fact Lee remained near the vehicle created an officer safety issue, even though Lee was supposedly free to leave or stay. CP 89-90 (findings of fact 9 and 13). The trial court concluded that (1) officers had a basis to search Lee's purse for officer safety reasons and to control the scene of Peterman's arrest, (2) Lee was not seized until she was placed under arrest, and (3) Lee validly consented to the purse search. CP 91.

After losing her suppression motion, Lee agreed to a trial on stipulated facts, agreeing that the trial court could consider the affidavits of probable cause. CP 54-81. These affidavits referred to a search warrant of Lee's telephone which disclosed incriminating texts. CP 71-72. The trial court found beyond a reasonable doubt that Lee was guilty of possession of a controlled substance with intent to deliver. CP 51-53; 2RP

8-10. The court imposed a prison-based DOSA per the parties' agreed recommendation. CP 24-25; 2RP 26.

Lee appealed. CP 5. Given the trial court's findings that Lee was not seized until formal arrest, Lee argued that, under article I, section 7, she was unlawfully seized when ordered to get out of the vehicle even though officers could articulate no objective safety rationale requiring her to exit. Br. of Appellant at 26-33. She also relied on article I, section 7 to argue that officers' investigatory questioning resulted in an unlawful seizure under Terry, given officers' statements they had no reasonable, articulable suspicion to suspect Lee of criminal activity. Br. of Appellant at 33-46. Lee also asked that the article I, section 7 common authority/consent rule be extended to the vehicle context per Gunwall. Br. of Appellant at 14-25.

Despite the trial court's and parties' focus on article I, section 7 and whether Lee was seized by officers' commands to the car and investigatory questioning, the Court of Appeals relied on Arizona v. Johnson, 555 U.S. 323, 129 S. Ct. 781, 172 L. Ed. 2d 694 (2009), to conclude that Lee was seized under Terry by mere virtue of being a passenger in a lawfully stopped vehicle. The court faulted Lee for not offering Gunwall analysis "about police officers asking questions unrelated to the justification for the traffic stop." Appendix A at 6 n.21. The court then held officers were permitted to

investigate Lee for criminal activity (despite their admitted lack of reasonable suspicion) because they did not measurably exceed the duration of the traffic stop. Appendix A at 9-13. The Court of Appeals thus disregarded several passenger/companion cases decided under article I, section 7 because they were "outdated" or "inapposite," supplanting these decisions with Arizona v. Johnson, a Fourth Amendment case. Appendix A at 13 & n.48.

D. ARGUMENT IN SUPPORT OF REVIEW

1. THE COURT OF APPEALS DECISION DISREGARDS DECADES OF PASSENGER/COMPANION SEIZURE CASES DECIDED UNDER ARTICLE I, SECTION 7

a. Appellate courts should be looking to and applying article I, section 7 authority first, not subordinating it to federal jurisprudence

The Court of Appeals decision incorrectly imports a Fourth Amendment case to a situation that has been up until now controlled by article I, section 7 case law. Because numerous article I, section 7 cases establish that investigating vehicle passengers is unlawful absent individualized reasonable suspicion of criminal activity, review is warranted under RAP 13.4(b)(1), (2), and (3).

Lee, the State, and the trial court all focused on the question of whether Lee was seized by the officers' actions prior to her formal arrest. The Court of Appeals brought up Arizona v. Johnson sua sponte just before

and during oral argument; neither the trial court nor the parties had provided any discussion of Fourth Amendment cases or the related rule that passengers in lawfully stopped vehicles are automatically seized pursuant to Terry. Instead, the trial court and parties focused on article I, section 7 cases such as State v. Flores, 186 Wn.2d 506, 516-17, 379 P.3d 104 (2016), and State v. Mendez, 137 Wn.2d 208, 220, 222-26, 970 P.2d 722 (1999), which establish that (1) officers may not remove passengers from vehicles (or order them to stay) or search their belongings unless they can articulate an objective safety rationale and (2) officers must articulate reasonable suspicion of criminal activity before investigating passengers for criminal activity. Br. of Appellant at 26-46; CP 90; 1RP 135-36.

Nevertheless, the Court of Appeals applied Johnson's rule to the circumstances. The court justified this approach because "Lee has not offered any Gunwall analysis about police officers asking questions unrelated to the justification for the traffic stop" under article I, section 7. Appendix at 6 & n.21. According to the Court of Appeals, officers may engage in whatever suspicionless investigations of passengers they wish as long as passengers are not detained longer than necessary to fulfill the stop's mission. Appendix at 6-13 (applying Johnson, 555 U.S. at 333-34).

This approach conflicts with several cases that hold article I, section 7 should be considered first regardless of a Gunwall analysis. "[W]hen a

new issue arises pursuant to article I, section 7, parties and courts are not required to conduct a Gunwall analysis before engaging in an independent state law analysis on the merits." State v. Mayfield, 192 Wn.2d 871, 879, 434 P.3d 58 (2019) (citing State v. Chenoweth, 160 Wn.2d 454, 462, 158 P.3d 595 (2007)); accord State v. VanNess, 186 Wn. App. 148, 155, 344 P.3d 713 (2015) ("Because our state constitution provides greater protection of individual privacy, when presented with arguments under the state and federal constitutions, Washington courts first examine the state argument."). The Court of Appeals did not consider article I, section 7 cases in the vehicle passenger context at all. Instead, it held that because Johnson altered the federal Terry standard, all prior article I, section 7 cases establishing constitutional requirements for vehicle passenger seizures are obsolete. Appendix A at 12-13 & nn. 42 & 48. This decision conflicts with Mayfield, Chenoweth, VanNess and numerous other cases that provide that article I, section 7 and case law applying it should be considered first in Washington courts, meriting review. RAP 13.4(b)(1)–(3).

Moreover, "[t]he first, second, third, and fifth [Gunwall] factors 'are uniform in any analysis of article I, section 7, 'and generally support analyzing our State constitution independently from the Fourth

Amendment."'[3] Blomstrom v. Tripp, 189 Wn.2d 379, 401, 402 P.3d 831 (2017). "In determining the protections of article I, section 7 in a particular context, 'the focus is on whether the unique characteristics of the state constitutional provision and its prior interpretations actually compel a particular result."' Chenoweth, 160 Wn.2d at 463 (quoting City of Seattle v. McCready, 123 Wn.2d 260, 267, 868 P.2d 134 (1994)). Accordingly, Lee's reliance on article I, section 7 cases—preexisting state law, Gunwall factor four—that protect privacy interests was appropriate. Contrary to the Court of Appeals decision, her reliance on state cases does not foreclose her arguments that the police conduct in this case amounted to an unlawful intrusion into her privacy. Review should be granted of the Court of Appeals' refusal to consider article I, section 7 cases, which conflicts with controlling constitutional decisions of this court. RAP 13.4(b)(1), (3).

b. Under article I, section 7, officers must have reasonable, articulable suspicion before subjecting vehicle passengers to investigatory intrusions

Washington cases addressing Terry stops under article I, section 7 have consistently concluded that because an arrestee's passengers or companions are not individually suspected of criminal activity, investigation of them for criminal activity is justified by authority of law

[3] The sixth Gunwall factor—matters of particular state or local concern—also supports independent analysis of article I, section 7 given that "privacy matters are of particular state interest and local concern." State v. Johnson, 128 Wn.2d 431, 446, 909 P.2d 293 (1996).

only if officers can articulate reasonable suspicion that passengers were involved in criminal activity. Flores, 186 Wn.2d at 523 ("Officers' authority to intrude into an individual's privacy is likewise limited in scope and duration; they may control the movements of nonarrested companions only to control the scene of arrest. To further engage in an investigatory interaction . . . officers must meet the individualized Terry standard . . . ."); State v. Rankin, 151 Wn.2d 689, 699-700, 92 P.3d 202 (2004) ("This is not to imply that officers may not engage passengers in conversation. They may do this. However, once the interaction develops into an investigation, it runs afoul of our state constitution unless there is justification for the intrusion into the passenger's private affairs."); Mendez, 137 Wn.2d at 220 (Terry must be met if the purpose of the officer's interaction with the passenger is investigatory."); State v. Larson, 93 Wn.2d 638, 642, 611 P.2d 771 (1980) (requesting identification from passengers is unconstitutional "unless other circumstances give the police independent cause to question passengers"); State v. Allen, 138 Wn. App. 463, 471-72, 157 P.3d 893 (2007) (questioning of driver to ascertain passenger's identity for criminal investigation exceeded scope of traffic stop absent independent reasonable suspicion passenger was engaged in criminal activity); State v. O'Day, 91 Wn. App. 244, 251-52, 955 P.2d 860 (1998) (although authority existed to verify O'Day was a licensed driver,

beyond this there was no authority of law to ask for consent to search her purse based on inarticulate hunches of criminal activity).

The Court of Appeals decision conflicts with all these cases, intentionally so, calling all of them inapposite or outdated. Appendix at 12-13. But, in Flores, a 2016 case, this court reaffirmed that "[w]here the stop is for investigative purposes, we require officers to meet the Terry standard of individualized, reasonable, articulable suspicion." 186 Wn.2d at 520-21 (collecting cases). Given that the Flores decision postdates the U.S. Supreme Court's Johnson decision on which the Court of Appeals relied, the article I, section 7 requirements discussed in Flores are not outdated.

Nor are the cases inapposite. The Johnson Court permits any and all investigation of unsuspected passengers under the Fourth Amendment as long as the duration of the stop is not extended. The rationale is that the passenger is lawfully seized at the time of the stop, so it is not unreasonable for officers to investigate passengers as long as they do not detain passengers longer than necessary to fulfill the stop's mission. 555 U.S. at 333-34. Thus, under the Fourth Amendment per Johnson, the stop's permissible duration has become coextensive with the stop's permissible scope.

Scope and duration are separate considerations and have not been treated equivalently under article I, section 7 cases. Unlike the Fourth Amendment, which rests on considerations of reasonableness, article I,

section 7 demands authority of law before the State may intrude into an individual's private affairs. As noted in the several cases cited above, authority of law to investigate passengers for criminal activity must be supported by officers' articulation of a reasonable suspicion that the passengers are engaged in criminal activity. The Court of Appeals' eager adoption of the Johnson rule dispenses with this requirement and therefore allows police to investigate passengers without authority of law. This conflicts with Washington Supreme Court and Court of Appeals decisions on the scope of article I, section 7 in the Terry context. Review is therefore warranted under RAP 13.4(b)(1), (2), and (3).

RAP 13.4(b)(4) review is also appropriate. Officers are now empowered to investigate passengers for crimes as much as they wish, despite having no individualized suspicion of criminal activity, just as long as it doesn't take too long. The Court of Appeals decision seems to justify this demise of article I, section 7 rights by applying some kind of de minimis standard, reasoning that mere inquiry about a past conviction and a suspicionless request for consent to search is not enough to trigger article I, section 7 protections. Appendix A at 11. Indeed, the court invoked the need for a flexible, practical rule so that the "realities of police work" do not "prove too rigid and brittle." Appendix A at 11. Implicit in the decision is the acknowledgment that there exists some point at which police may exceed

the permissible scope of the lawful seizure by resorting to suspicionless investigation, but no hint is given about where this point is.

However, as with any article I, section 7 analysis, the line must be drawn where authority of law begins. Officers had no basis to suspect Lee had committed or was about to commit any crime or posed any danger to them, and they freely admitted as much. 1RP 31-32, 39, 55, 84. No de minimis, flexible rule to support the "realities of police work" is needed. The rule should be simple: because no reasonable suspicion existed, neither did any authority of law exist that would justify officers' intrusion into Lee's private affairs by investigating her for criminal activity. The Court of Appeals decision dangerously undermines the authority of law requirement stated in the text of article I, section 7, conflicting with several Supreme Court and Court of Appeals cases and presenting a constitutional issue of substantial public import. Every RAP 13.4(b) criterion supports review.

2. UNDER FLORES AND MENDEZ, POLICE WERE NOT PERMITTED TO ORDER LEE OUT OF THE VEHICLE OR SEARCH HER BELONGINGS BECAUSE THEY COULD ARTICULATE NO OBJECTIVE SAFETY RATIONALE

> A police officer should be able to control the scene and ensure his or her own safety, but this must be done with due regard to the privacy interests of the passenger, who was not stopped on the basis of probable cause by the police. An officer must therefore be able to articulate an objective rationale predicated specifically on safety concerns, for officers, vehicle occupants, or other citizens,

> for ordering a passenger to stay in the vehicle or to exit the vehicle to satisfy article I, section 7. This articulated objective rationale prevents groundless police intrusions on passenger privacy.

Flores, 186 Wn.2d at 516 (quoting Mendez, 130 Wn.2d at 220). "To meet this objective rationale standard, an officer need not meet the standard required for a Terry stop." Id. Instead, there are several factors to consider: "the number of officers, the number of vehicle occupants, the behavior of the occupants, the time of day, the location of the stop, traffic at the scene, affected citizens, or officer knowledge of the occupants." Mendez, 130 Wn.2d at 221. This inquiry "requires consideration of the circumstances present at the scene of the traffic stop." Id.

In Mendez, a passenger exited a stopped vehicle and began walking away and started running when officers commanded him to stop. Id. at 212-13. Officers could not satisfy the objective rationale test. Id. at 222-26. This was largely so because one officer stated "he had no suspicions Mendez had engaged or was about to engage in criminal conduct." Id. at 224. Nor did Mendez's actions, such as reaching inside his clothing, objectively arouse suspicion, given that this action occurred "*after* he had been seized by [the officer's] command" and "'[obviously], once an individual is "seized," no subsequent events or circumstances can retroactively justify the "seizure."'" Id. (quoting State v. Stinnett, 104

Nev. 398, 760 P.2d 124, 126 (1988)). Because officers could not point to any specific safety concerns, maintained control of the driver, and did not suspect Mendez of committing any crime, they failed to articulate an objective rationale for stopping Mendez. Id. at 225-26.

This case is no different. Both responding officers stated unequivocally that they had no basis to suspect Lee of criminal activity, being under the influence of alcohol or illegal drugs, being armed and dangerous, or otherwise arousing suspicion in any way. 1RP 31-32, 55, 84. There were two officers present at the scene with a third en route. 1RP 53 (discussing third police "unit" arriving). Since only Lee and her husband were present, the ratio of officers to non-officers was at all times 1:1 or 3:2. The stop was initiated at 7:23 p.m. on July 7, 2015; though the summer sun was not directly overhead, it was not dark. CP 86; 1RP 4, 40. Neither of the officers expressed any safety concern regarding the location of the stop, traffic at the scene, or other citizens who could be affected. Cf. Mendez, 130 Wn.2d at 221. Although one officer saw a bulge in Lee's bra area and saw her manipulate it when asked, he saw it *after* Lee had been ordered out of the car. 1RP 67-68; cf. Mendez, 130 Wn.2d at 224. And, though officers ran Lee's ID and discovered she had a previous conviction for possession of a controlled substance, a previous conviction does not "afford grounds for believing that an individual is engaging in

criminal activity at any given time thereafter . . . ." State v. Hobart, 94 Wn.2d 437, 446, 617 P.2d 429 (1980).

Under the Mendez factors, officers had no lawful authority to remove Lee from the passenger seat of the car. Everything that followed was fruit of the poisonous tree and must be suppressed. Mendez, 137 Wn.2d at 226; see also State v. Afana, 169 Wn.2d 169, 179, 233 P.3d 879 (2010) ("The violation of [an individual's] right of privacy under article I, section 7 automatically implies the exclusion of the evidence seized.").

Nor did officers have a lawful basis to search Lee's purse, which remained in the car after she exited the vehicle. 1RP 9-10. As Flores made clear, "'the arrest of one or more vehicle occupants does not, without more, provide the 'authority of law' under article I, section 7 of our state constitution to search other, nonarrested vehicle passengers, including personal belongings clearly associated with such nonarrested individuals."' 186 Wn.2d at 517 (emphasis added) (quoting State v. Parker, 139 Wn.2d 486, 502-03, 987 P.2d 73 (1999) (lead opinion)).

The Court of Appeals decision does not address the holdings of these cases. Instead, it cites other cases that state that officers may ask vehicle occupants to exit the vehicle to facilitate a search of the vehicle. Appendix A at 9. And the court mentions Flores in passing, noting that the officers may order passengers to exit a vehicle to control the scene as long as they

can articulate an objective rationale for doing so. Appendix A at 9 n.37. But the court also acknowledges that officers had no objective safety rationale. Appendix A at 12 ("Although officer safety during traffic stops is always a serious concern, we do not rely on the abstract potential for a weapon in a purse. The only testify was that Lee has not demonstrated any risk of being armed or dangerous."). The Court of Appeals decision and the decisions it cites show a conflict between these decisions and Flores and Mendez on a constitutional question. RAP 13.4(b)(1), (2), and (3) review is warranted.

3. REVIEW IS NECESSARY TO DECIDE WHETHER HER HUSBAND'S CONSENT TO A VEHICLE SEARCH VITIATES LEE'S NEED TO SEPARATE CONSENT TO A SEARCH OF THE VEHICLE AS TO HER PERSON AND EFFECTS WHERE SHE IS PRESENT AND ABLE TO OBJECT

Under article I, section 7, where two or more persons have equal control over real property, police must obtain the consent of all such persons who are present and able to object before they may initiate a search based upon consent. State v. Leach, 113 Wn.2d 735, 744, 782 P.2d 1035 (1989). This court declined to extend the Leach rule to vehicle searches under the Fourth Amendment because "[n]o adequate independent state grounds are advanced in this case to support extending the Leach rule to motor vehicles." State v. Cantrell, 124 Wn.2d 183, 190 & n.19, 875 P.2d 1208 (1994). Unlike in Cantrell, Lee provided a Gunwall analysis of article I, section 7 to support

applying the Leach rule to vehicles. Br. of Appellant at 14-25. This important constitutional issue should be reviewed under RAP 13.4(b)(3).

The Court of Appeals decision declined to address this issue by claiming that it was not a manifest constitutional issue. Appendix A at 14-15. The court stated, "if the facts necessary to adjudicate the claim error are not in the record on appeal, no actual prejudice is shown, and the error is not manifest." Appendix A at 14. The court then concluded that although Lee was with her spouse, because neither spouse was the registered owner of the car and the record contains no information about either's relationship with the registered order, there was not enough of a record to support what authority either spouse had over the car. Appendix at 14-15 ("the authority over the car likely includes consideration of the spouses' relationship with the registered owner and scope of permission granted by the owner").

The Court of Appeals decision conflicts with the rule that "the touchstone of the [common authority] inquiry is that the person with common authority must have free access to the shared area an authority to invite others into the shared area." State v. Morse, 146 Wn.2d 1, 10-11, 123 P.3d 832 (2005). Common authority "does not rest upon the law of property, with its attendant legal refinements, but rests rather on mutual use of the property." Id. at 7. At the moment the State obtained Peterman's consent to search the car, Lee had the same access to the car as did Peterman,

regardless of the fact that another person was the registered owner. As in Morse, the police may not just assume that a husband's consent provides authority to conduct a search when the wife with equal access to the property is present. Lee thus advocates for a rule based on Leach: Where the police have obtained consent to search from an individual possessing equal control over a vehicle that is shared with an occupant who is present in or at the vehicle and is able to object, the police must also obtain the other occupant's consent before any search may begin. The Court of Appeals decision not to review this issue conflicts with the apparent authority rule and the fact that it does not turn on property law principles. Review is appropriate under RAP 13.4(b)(1) and (3).

E. CONCLUSION

Because she meets all RAP 13.4(b) review criteria, Lee respectfully requests that review be granted.

DATED this 31st day of May, 2019.

Respectfully submitted,

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APPENDIX A

FILED
2/25/2019
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON, Respondent, v. CARMEN ROSE LEE, Appellant.	No. 77038-1-I PUBLISHED OPINION FILED: February 25, 2019

VERELLEN, J. — When analyzing whether a passenger's voluntary consent to search her purse has been vitiated by an unlawful seizure, the starting point is the traffic stop that culminated in the search. If police validly stop a car for a traffic infraction, the driver and passengers are lawfully seized. Generally, the seizure continues and remains reasonable for the duration of the traffic stop, ending when police no longer need to control the scene and tell the passengers they are free to leave. Under article I, section 7 of the Washington Constitution, the scope and duration of a lawful traffic stop are governed by the rationale of Terry v. Ohio,[1] depend on the totality of the circumstances, and may expand as the circumstances change.

[1] 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

Under the totality of the circumstances, the police did not exceed reasonable scope and duration limitations merely by asking a lawfully seized passenger for consent to search a purse she left inside the car and making a single mention of her prior drug conviction. Carmen Lee's voluntary consent to search her purse was not vitiated by an unlawful seizure.

We affirm Lee's conviction for possession of controlled substances with intent to deliver.

FACTS

On July 7, 2015, Michael Peterman was driving a car, and Lee was the front seat passenger. Detective Garry Tilleson initiated a traffic stop for two traffic infractions. Detective Tilleson asked Peterman for his identification, learned his license was suspended, and arrested him for first degree driving while license suspended or revoked. Peterman consented to a search of the car.

Detective Tilleson told Lee to step out to facilitate his search of the car. She left her purse inside the car. Detective Tilleson ran Lee's identification information to determine if she had a driver's license so she could drive the car if it was not impounded. He learned Lee had a valid driver's license and a conviction for possession of a controlled substance. Lee began to pace back and forth near the car. At some point, Detective Ross Fryberg directed Lee to sit on a nearby curb. During a conversation, Lee told Detective Tilleson the purse in the car was hers. Detective Tilleson asked Lee for permission to search her purse, telling her

that he was asking "due to her prior drug conviction."[2] He also gave Lee warnings pursuant to State v. Ferrier[3] that she was not obligated to consent and that she could revoke consent or limit the scope of the search at any time. Lee consented to the search.[4] When Detective Tilleson asked Lee if there was anything in her purse he should be concerned about, she said there was some heroin inside. Detectives found heroin and methamphetamine in her purse, advised Lee of her Miranda[5] rights, and arrested her for possession of a controlled substance with intent to manufacture or deliver.

Lee moved to suppress the evidence obtained from the search of her purse. Lee testified she did not consent to the search and that a detective told her "he didn't care if there was a little bit of dope in my bag and he just searched the car and searched my stuff."[6] Lee also testified she "probably" had been using heroin that day.[7]

Detective Tilleson testified he did not suspect Lee of a crime when he requested her consent to search her purse. He and Detective Fryberg confirmed that Detective Tilleson first obtained Lee's consent to search the purse, gave

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[2] Report of Proceedings (RP) (Oct. 6, 2016) at 31.

[3] 136 Wn.2d 103, 960 P.2d 927 (1998).

[4] Both detectives testified that Detective Tilleson provided Ferrier warnings, and that Lee never revoked her consent or asked the officer to stop or to limit the scope of the search.

[5] Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 10 Ohio Misc. 9 (1966).

[6] RP (Oct. 6, 2016) at 105.

[7] Id. at 110.

Ferrier warnings, and then Lee disclosed there were narcotics in the purse. Neither detective recalled telling Lee she was free to leave during the stop. Dispatch time log records suggest the traffic stop commenced at 7:23 p.m. and Detective Tilleson conducted his search at 7:41 p.m.

The trial court denied Lee's motion to suppress the results of the search of her purse. The court found "the testimony of the [detectives] involved [was] more credible than the defendant's testimony."[8] The court also noted the detectives inquired about Lee's identity "to determine if she was a licensed driver so that the vehicle could be released to her as an alternative to impoundment."[9] The trial court determined that all of Lee's statements were voluntary and that none were coerced. The court concluded that Lee validly consented to a search of her purse.

At the bench trial on stipulated facts, the judge found Lee guilty of possession of a controlled substance with intent to deliver. Lee appeals.

ANALYSIS

Challenged findings entered after a suppression hearing that are supported by substantial evidence are binding; unchallenged findings are verities on appeal.[10] Substantial evidence is enough evidence to persuade a fair-minded

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[8] Clerk's Papers (CP) at 90 (finding of fact 17).

[9] Id. at 89.

[10] State v. O'Neil, 148 Wn.2d 564, 571, 62 P.3d 489 (2003).

person of the truth of the finding.[11] This court reviews the trial court's conclusions of law de novo.[12]

Lee's challenges the sufficiency of the evidence supporting eight of the findings of fact from the suppression hearing. Her challenges are not compelling. Because the trial court heard the testimony from both Lee and the detectives, there was sufficient evidence to support the finding that the officers were more credible than Lee.[13] Lee's challenges to other findings are narrow and either relate to theories on which we do not rely or are otherwise immaterial.

Passenger's Consent to Search Her Purse

Lee's core argument is that she did not validly consent to the search of her purse because the detectives unlawfully seized her. Notably, she does not challenge the voluntariness of her consent or assert any theory of coercion.[14]

Both the Fourth Amendment of the United States Constitution and article I, section 7 of the Washington Constitution prohibit a warrantless search or seizure unless an exception applies.[15] Voluntary consent is an exception to the warrant requirement.[16] But an otherwise voluntary consent may be vitiated by an unlawful

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[11] State v. Hill, 123 Wn.2d 641, 644, 870 P.2d 313 (1994).

[12] State v. Levy, 156 Wn.2d 709, 733, 132 P.2d 1076 (2006).

[13] See State v. Cardenas-Flores, 189 Wn.2d 243, 266, 401 P.3d 19 (2017) ("'Credibility determinations are reserved for the trier of fact' and are not subject to review." (quoting State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990))).

[14] Lee does not assign error to the trial court determinations that all of her statements were voluntary and none was coerced. CP at 91 (conclusion of law 5).

[15] State v. Rankin, 151 Wn.2d, 689, 695, 92 P.3d 202 (2004).

[16] State v. Cantrell, 124 Wn.2d 183, 187, 875 P.2d 1208 (1994).

seizure.[17] When analyzing a passenger's consent to search the purse she left in the car, we start with the traffic stop that led to the search.

When police conduct a traffic stop, "it is now well established that '[f]or the duration of a traffic stop . . . a police officer effectively seizes everyone in the vehicle.'"[18] If the traffic stop is valid, then seizure of the driver and passengers is also valid.[19] A passenger's seizure "ordinarily continues, and remains reasonable, for the duration of the stop. Normally, the stop ends when the police have no further need to control the scene, and inform the driver and passengers they are free to leave."[20]

At oral argument, Lee asserted that article I, section 7 of the Washington Constitution controls.[21] She contends the portions of Arizona v. Johnson[22] and

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[17] State v. Armenta, 134 Wn.2d 1, 17-18, 948 P.2d 1280 (1997); State v. Soto-Garcia, 68 Wn. App. 20, 26-27, 841 P.2d 1271 (1992) (consent "obtained through exploitation of a prior illegality may be invalid even if voluntarily given"), abrogated on other grounds, State v. Thorn, 129 Wn.2d 347, 917 P.2d 108 (1996)).

[18] State v. Marcum, 149 Wn. App. 894, 910, 205 P.3d 969 (2009) (alterations in original) (internal quotation marks omitted) (quoting Arizona v. Johnson, 555 U.S. 323, 327, 129 S. Ct. 781, 172 L. Ed. 2d 694 (2009)); see Brendlin v. California, 551 U.S. 249, 255, 127 S. Ct. 2400, 168 L. Ed. 2d 132 (2007).

[19] Marcum, 149 Wn. App. at 910.

[20] Arizona v. Johnson, 555 U.S. 323, 333, 129 S. Ct. 781, 172 L. Ed. 2d 694 (2009).

[21] Lee has not offered any Gunwall analysis about police officers asking questions unrelated to the justification for the traffic stop. State v. Gunwall, 106 Wn.2d 54, 729 P.2d 808 (1986).

[22] 555 U.S. 323, 333, 129 S. Ct. 781, 172 L. Ed. 2d 694 (2009).

Rodriguez v. United States[23] regarding Fourth Amendment analysis of unrelated questions during a traffic stop do not apply here. Accepting Lee's premise without deciding it, the key question then becomes what standard applies under article I, section 7 of the Washington Constitution to analyze the impact of an officer's question unrelated to the justification for the traffic stop.[24] We are guided by a long line of well accepted Washington Supreme Court decisions.

The Fourth Amendment and article I, section 7 both recognize an investigative stop exception to the warrant requirement as set forth in Terry v. Ohio.[25] The rationale of Terry applies by analogy to traffic stops.[26]

At oral argument, Lee acknowledged the Terry standards for scope and duration of a stop apply and are the same when analyzed under either the Fourth

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[23] ___ U.S. ___, 135 S. Ct. 1609, 191 L. Ed. 2d 492 (2015).

[24] Although the briefing by both parties focused on whether and when Lee was seized based on conduct after the traffic stop commenced, we directed the parties to come to oral argument prepared to address specific questions and specific cases, including Johnson and Rodriguez, about the seizure of passengers at the beginning of a traffic stop and whether unrelated questions may be asked during the stop. As a result, the parties' ultimate arguments depart significantly from the briefs.

[25] 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968). Washington courts recognize the Terry stop exception under article I, section 7 of the Washington Constitution. State v. Mecham, 186 Wn.2d 128, 135, 380 P.3d 414 (2016); State v. Ladson, 138 Wn.2d 343, 348-50, 979 P.2d 833 (1999).

[26] Mecham, 186 Wn.2d at 137-38 ("As set forth in Terry, a traffic stop is a seizure for the purposes of constitutional analysis—it is analogous to a brief investigative detention."); State v. Snapp, 174 Wn.2d 177, 198, 275 P.3d 289 (2012) ("Terry's rationale applies to traffic infractions."); State v. Arreola, 176 Wn.2d 284, 292-93, 290 P.3d 983 (2012) ("Warrantless traffic stops are constitutional under article I, section 7 as investigative stops, but only if based upon at least a reasonable articulable suspicion of either criminal activity or a traffic infraction, and only if reasonably limited in scope.").

Amendment or article 1, section 7. Lee's concession is consistent with our Supreme Court's recognition in State v. Z.U.E. that "[i]n a challenge to the validity of a Terry stop, article I, section 7 generally tracks the Fourth Amendment analysis."[27]

The standards for a Terry stop, including the appropriate scope of such a stop, are well established in Washington.[28] We analyze such stops on a case-by-case basis.[29] "[C]ourts must review an officer's actions under the totality of the circumstances to determine if a [Terry stop] seizure is made with the authority of law and is of reasonable scope and duration."[30]

"Similar to the analysis for determining the initial validity of the stop, the proper scope of a Terry stop depends on 'the purpose of the stop, the amount of physical intrusion upon the suspect's liberty, and the length of time the suspect is detained.'"[31] "A lawful Terry stop is limited in scope and duration to fulfilling the investigative purpose of the stop."[32] Once that purpose is fulfilled, the stop must

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[27] 183 Wn.2d 610, 617, 352 P.3d 796 (2015) (recognizing the sole distinction that a Terry stop analyzed under article I, section 7 requires a reasonable suspicion connecting a particular person to a particular crime rather than a general suspicion that someone is up to no good).

[28] State v. Young, 135 Wn.2d 498, 510, 957 P.2d 681 (1998) ("Washington search and seizure law stemming from Terry . . . is well established.").

[29] Mecham, 186 Wn.2d at 138.

[30] State v. Flores, 186 Wn.2d 506, 525 n.8, 379 P.3d 104 (2016).

[31] State v. Alexander, 5 Wn. App. 2d 154, 160, 425 P.3d 920 (2018) (quoting State v. Williams, 102 Wn.2d 733, 740, 689 P.2d 1065 (1984)).

[32] State v. Acrey, 148 Wn.2d 738, 747, 64 P.3d 594 (2003).

end.[33] An officer may lawfully extend the stop's scope and duration based on information obtained by officers during the traffic stop.[34] "There is no rigid time limitation on Terry stops."[35]

Washington courts also recognize that officers may conduct routine law enforcement procedures during traffic stops "as long as they do not unreasonably extend the initial valid stop."[36] For example, officers may request a vehicle's occupants "to step out of and away from their vehicles, and to perform other limited movements."[37] [38] Officers may require passengers to get out of a vehicle to facilitate a search of the vehicle.[39] Apart from general officer safety concerns, we note the presence of a passenger in a car during a search of the car would frustrate the efficiency and effectiveness of the search and would place both the

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[33] Id.

[34] Id.

[35] State v. Vanhollebeke, 197 Wn. App. 66, 76, 387 P.3d 1103 (2016), affirmed, 190 Wn.2d 315 (2017).

[36] Alexander, 5 Wn. App. 2d at 162-63.

[37] Mecham, 186 Wn.2d at 144; see also State v. Flores, 186 Wn.2d 506, 516, 379 P.3d 104 (2016) (during a traffic stop, officers may order passengers to stay in or exit a vehicle in order control the scene of an investigation and ensure their safety as long as they can articulate an objective rationale for doing so).

[38] Lee's challenge to finding of fact 9 relates to whether she was seized while pacing, a theory immaterial to the ultimate legal question. Lee challenges finding of fact 12 "to the extent" it suggests usual practice permitted officers to remove her from the car. Appellant's Br. at 1. But the legal authority of officers at a traffic stop to control the scene and instruct passengers to get out of a car to facilitate a search does not depend on a finding about usual practices.

[39] State v. Rehn, 117 Wn. App. 142, 151, 69 P.3d 379 (2003).

passenger and the officer in an awkward position. Officers are obligated to consider reasonable alternatives to impoundment such as determining whether the driver's spouse or friends are available to move the vehicle.[40] And while an officer in a traffic stop may not request identification from a passenger for investigatory purposes absent an independent reason to justify the request, an officer may check the passenger's identification to determine if the passenger has a valid driver's license when considering whether to allow the passenger to drive the car from the scene.[41]

Because Lee was lawfully seized at the beginning of the traffic stop and remained reasonably seized when she was asked to consent to a search of the purse she left in the car, our inquiry is whether police exceeded the reasonable scope and duration of the traffic stop by asking her consent to search her purse while mentioning her prior drug conviction.

The totality of the circumstances here includes a valid traffic stop for a cracked windshield and an inoperative brake light, in violation of RCW 46.37.070 and RCW 46.37.410. Detectives lawfully checked Peterson's identification and lawfully arrested him once they determined he was driving with a suspended license. Peterson consented to a search of the car, and a detective lawfully requested that Lee exit while he searched the car. The detectives legitimately

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[40] State v. Tyler, 177 Wn.2d 690, 698, 302 P.3d 165 (2013).

[41] State v. Larson, 93 Wn.2d 638, 642-45, 611 P.2d 771 (1980); State v. Rankin, 151 Wn.2d 689, 699, 92 P.3d 202 (2004); State v. Mennegar, 114 Wn.2d 304, 309, 787 P.2d 1347 (1990).

checked Lee's identification to determine whether she was a licensed driver and could drive the car from the scene following Peterson's arrest. And the search of the purse occurred roughly 18 minutes after the traffic stop began.

Lee provides no authority, and we find none, indicating that merely asking a lawfully seized person if they consent to a search of a container voluntarily left in a car somehow renders their seizure unlawful or exceeds the reasonable scope and duration of a traffic stop. The purpose of this traffic stop reasonably expanded to include the arrest of the driver and consensual search of the car. Under these changing circumstances, it was not unreasonable for the detective to ask Lee if she consented to a search of the purse she left in the car after she knew the detectives would be searching the car.

The mention of Lee's prior drug conviction must also be considered as part of the totality of the circumstances. Here, there was a single mention of the conviction in passing. There was no physical intrusion upon Lee. And the time required to say the words "prior drug conviction" was inconsequential.

The word "reasonable" implies a measure of flexibility and practicality. If the reasonable scope and duration standard could be exceeded by the single reference to a prior conviction in this case, it would prove too rigid and brittle a standard for the realities of police work. We conclude that the police did not exceed the reasonable scope or duration of the expanded traffic stop under the totality of the circumstances. Therefore, Lee fails to establish that under article I,

section 7, her voluntary consent to search her purse was vitiated by police conduct.[42] [43]

The trial court mentioned officer safety concerns because the purse could have concealed a weapon. Although officer safety during traffic stops is always a serious concern, we do not rely on the abstract potential for a weapon in a purse. The only testimony was that Lee had not demonstrated any risk of being armed or dangerous. Any concerns that she might obtain possession of her purse when the traffic stop ended and that her purse was big enough to contain a weapon are abstract. If that is the standard, then virtually every traffic stop with a modestly sized container inside a car would justify a search of the container, no matter how

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[42] Lee's premise is that article I, section 7 governs and that the portions of Johnson and Rodriguez regarding unrelated questions during traffic stops have no application here. Therefore, we need not engage in any alternative Fourth Amendment analysis under those cases. But we note that there is Washington authority suggesting that a single question unrelated to the traffic stop does not measurably extend the duration of the stop or prolong the stop beyond the time reasonably required to complete the stop's mission for purposes of the Fourth Amendment. See State v. Pettit, 160 Wn. App. 716, 720, 251 P.3d 896 (2011) (asking a question unrelated to the justification for traffic stop "was brief and did not significantly extend the duration beyond that of a typical traffic stop"); State v. Shuffelen, 150 Wn. App. 244, 257, 208 P.3d 1167 (2009) ("Nor was this question violative of Ms. Shuffelen's rights simply because it was unrelated to [the officer's] justification for the initial traffic stop.").

[43] Lee challenges finding of fact 10 "to the extent that it suggests that [she] validly consented to the search of her purse." Appellant's Br. at 1. But detective testimony supports the specific facts in that finding. Also, our review of whether police conduct vitiated her voluntary consent does not depend on any inference of validity from finding of fact 10.

benign the circumstances. The State cites no authority supporting such a sweeping view of officer safety as a rationale for a warrantless search.[44]

Lee also suggests the trial court relied on the theory that police conducted an inventory search of the car. We do not read the record to reflect that the police conducted an inventory search, or that the trial court relied on an inventory search exception.[45]

As discussed at oral argument, in State v. O'Day, Division Three of this court found that a passenger was illegally seized when an officer ordered her out of the car, kept her purse out of reach, asked if she had drugs or weapons, and asked if she would consent to a search.[46] The court held the illegal investigative detention vitiated the defendant's consent.[47] O'Day is distinguishable because of factual differences and is inapposite because it is now clear that a passenger in a traffic stop is necessarily seized when the stop begins, and ordinarily, that seizure continues and remains reasonable for the duration of the stop.[48]

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[44] Lee challenges findings of fact 13 and 14 regarding alleged officer safety concerns and the suggestion that officers could search her purse "merely because [it] could have concealed a weapon." Appellant's Br. at 2. But we do not rely on officer safety concerns specific to Lee and her purse.

[45] Lee challenges finding of fact 11 "to the extent it suggests that the officers legitimately invoked the inventory search." Appellant's Br. at 1. But neither the trial court nor we rely on an inventory search exception.

[46] 91 Wn. App. 244, 253, 955 P.2d 860 (1998).

[47] Id.

[48] Similar to O'Day, many of the cases cited by Lee are inapposite because they are based on the outdated premise that a passenger in a traffic stop had not been seized at the commencement of the stop.

We conclude Lee's voluntary consent to search her purse was not vitiated by police conduct at the traffic stop. Specifically, under the totality of the circumstances, the police did not exceed the reasonable scope and duration of the traffic stop.

Spouse's Consent to Search Car Not a Manifest Constitutional Issue

For the first time on appeal, Lee contends that article I, section 7 of the Washington Constitution requires the consent of both the driver and passenger for a search of a car when they are spouses. Lee concedes our Supreme Court held in State v. Cantrell that the Fourth Amendment does not require all occupants of a motor vehicle to independently consent to a vehicle search.[49] Lee contends we should analyze whether article I, section 7 provides greater protection than the Fourth Amendment. Lee argues this is a manifest constitutional error that may be raised for the first time on appeal.

A manifest error is one "truly of constitutional magnitude."[50] But if the facts necessary to adjudicate the claimed error are not in the record on appeal, no actual prejudice is shown, and the error is not manifest.[51]

Lee argues that the only facts necessary to apply article I, section 7 are that the spouses were the only ones using the car. But neither spouse was the

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[49] 124 Wn.2d 183, 188, 875 P.2d 1208 (1994) ("warrantless searches can be used against a nonconsenting defendant").

[50] State v. Scott, 110 Wn.2d 682, 688, 757 P.2d 492 (1988).

[51] State v. McFarland, 127 Wn.2d 322, 333, 899 P.2d 1251 (1995); State v. Riley, 121 Wn.2d 22, 31, 846 P.2d 1365 (1993).

registered owner, and the record contains no information about Lee or Peterman's relationship with the registered owner. Under article I, section 7, the authority over the car likely includes consideration of the spouses' relationship with the registered owner and scope of permission granted by the owner.[52] On the existing record, Lee fails to establish a manifest error that may be raised for the first time on appeal.[53]

Attentuation Doctrine Not at Issue

Lee argues that article I, section 7 does not allow application of the federal attenuation doctrine. But in its brief, the State acknowledges it does not rely on attenuation.[54] We need not address the substance of this argument.

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[52] See generally State v. Morse, 156 Wn.2d 1, 8, 123 P.3d 832 (2005) ("Common authority under article I, section 7 is grounded upon the theory that when a person, by his actions, shows that he has willingly relinquished some of his privacy, he may also have impliedly agreed to allow another person to waive his constitutional right to privacy."); State v. Vanhollebeke, 190 Wn.2d 315, 329, 412 P.3d 274 (2017) (a driver's right to privacy in another's vehicle completely "fade[s] away" at some point when the driver's use is not permissive; the existence and scope of the owner's permission is a factor to consider under article I, section 7).

[53] Lee challenges finding of fact 8 "to the extent" it suggests the husband alone could consent to a search of the car. Appellant's Br. at 1. But that issue is not a manifest error which may be raised for the first time on appeal.

[54] Resp't's Br. at 39 ("[T]he State concedes that if Lee was unlawfully seized prior to giving consent to search her purse, any evidence gathered thereafter should have been excluded.").

CONCLUSION

Lee was necessarily seized as a passenger in the traffic stop and remained reasonably seized for the duration of the stop. Even assuming article I, section 7 controls, the scope and duration of the traffic stop are governed by the Terry rationale. The scope and duration of the traffic stop expanded to include the arrest of the driver and the consensual search of the car.

Under the totality of the circumstances, the police did not exceed the reasonable scope and duration limitations by asking Lee for consent to search the purse she left inside the car and by making a single mention of Lee's prior drug conviction. Because the police did not exceed the reasonable scope and duration limitations, Lee's voluntary consent to search her purse was not vitiated by police conduct.

We affirm.

WE CONCUR:

APPENDIX B

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

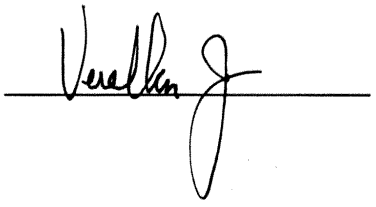
STATE OF WASHINGTON, Respondent, v. CARMEN ROSE LEE, Appellant.	)	No. 77038-1-I ORDER DENYING MOTION FOR RECONSIDERATION

Appellant filed a motion for reconsideration of the opinion filed February 25, 2019. The panel requested an answer from respondent. Following consideration of the motion and answer, the panel has determined the motion should be denied.

Now, therefore, it is hereby

ORDERED that appellant's motion for reconsideration is denied.

FOR THE PANEL:



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