



Welcome to Inside the Courts 2026

The Case of the Ordinary Traffic
Stop
(that wasn't)



NINTH
Judicial Circuit Court
OF FLORIDA

Week 1 Presenter

Keith A. Carsten

Lifelong Orlando Resident

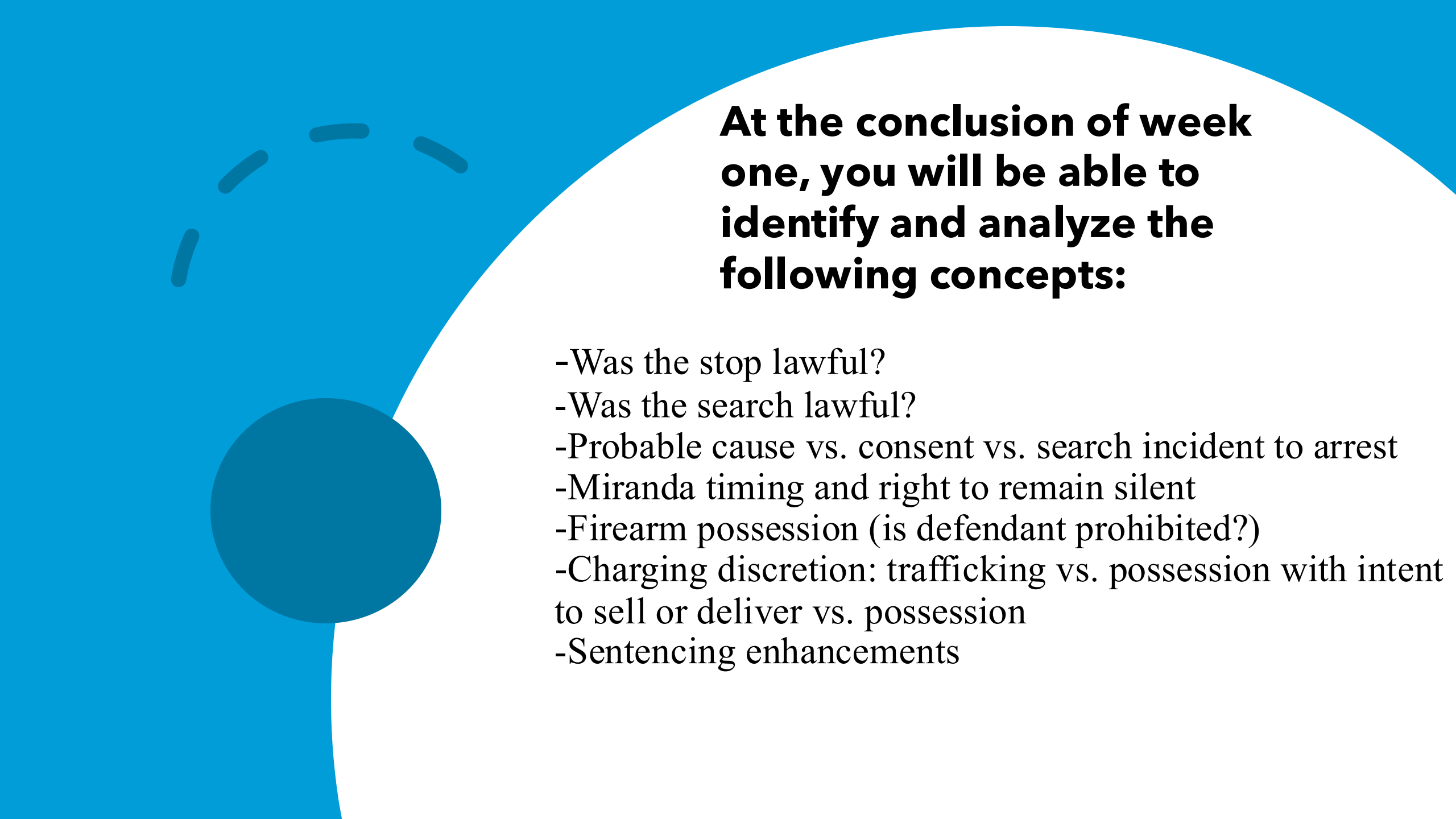
**Circuit Court Judge since 2013
Current Administrative Judge
of Circuit Criminal Divisions**

**Former prosecutor and Defense
Attorney**

**Board Certified
In Criminal Trial Law**

**Presided over 240+ Felony
Trials as a trial judge.**





At the conclusion of week one, you will be able to identify and analyze the following concepts:

- Was the stop lawful?
- Was the search lawful?
- Probable cause vs. consent vs. search incident to arrest
- Miranda timing and right to remain silent
- Firearm possession (is defendant prohibited?)
- Charging discretion: trafficking vs. possession with intent to sell or deliver vs. possession
- Sentencing enhancements



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The Ordinary Traffic Stop (that wasn't)

Intro

- Danny Defendant




- Ofc. John E. Law



The Traffic Stop




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Was the Traffic Stop Legal ?

Probable Cause



Probable cause for a traffic stop exists when an officer has a reasonable belief, based on objective facts, that a driver has committed a traffic violation or that a crime has been/is being committed. This suspicion must be articulable, not mere hunches, to justify the Fourth Amendment seizure

316.221 Taillamps.—



(1) Every motor vehicle, trailer, semitrailer, and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two taillamps mounted on the rear, which, when lighted as required in s. [316.217](#), shall emit a red light plainly visible from a distance of 1,000 feet to the rear, except that passenger cars and pickup trucks manufactured or assembled prior to January 1, 1972, which were originally equipped with only one taillamp shall have at least one taillamp. On vehicles equipped with more than one taillamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable. An object, material, or covering that alters the taillamp's visibility from 1,000 feet may not be placed, displayed, installed, affixed, or applied over a taillamp.

BUT....

The Florida Second District Court of Appeal definitively held that a traffic stop was not authorized when one of three brake lights was inoperable (State v. Burger, 921 So.2d 847 (2006)). The court explained that "if two of the vehicle's three brake lights were operational, this was sufficient to comply with the requirements of section 316.222(1)" (State v. Burger, 921 So.2d 847 (2006)). The court specifically noted that "[t]he statute does not require that the operable lights be parallel to one another but only that they be located in the rear of the vehicle" (State v. Burger, 921 So.2d 847 (2006)).

But...But...

Regarding probable cause standards, Florida follows the objective basis test for traffic stops under the Fourth Amendment, where an officer must have an objectively reasonable basis for the stop. Mistakes of law, if objectively reasonable, can justify reasonable suspicion to conduct a stop, but incorrect interpretations unsupported by statutory or case law precedents may invalidate the stop. The totality of the circumstances and factual basis for the officer's belief remain critical considerations.



316.155 When signal required.—

- (1) No person may turn a vehicle from a direct course or move right or left upon a highway unless and until such movement can be made with reasonable safety, and then only after giving an appropriate signal in the manner hereinafter provided, in the event any other vehicle may be affected by the movement.
- (2) A signal of intention to turn right or left must be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that such a signal by hand or arm need not be given continuously by a bicyclist if the hand is needed in the control or operation of the bicycle.
- (3) No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give such signal.

DL check and Warning / Citation Decision



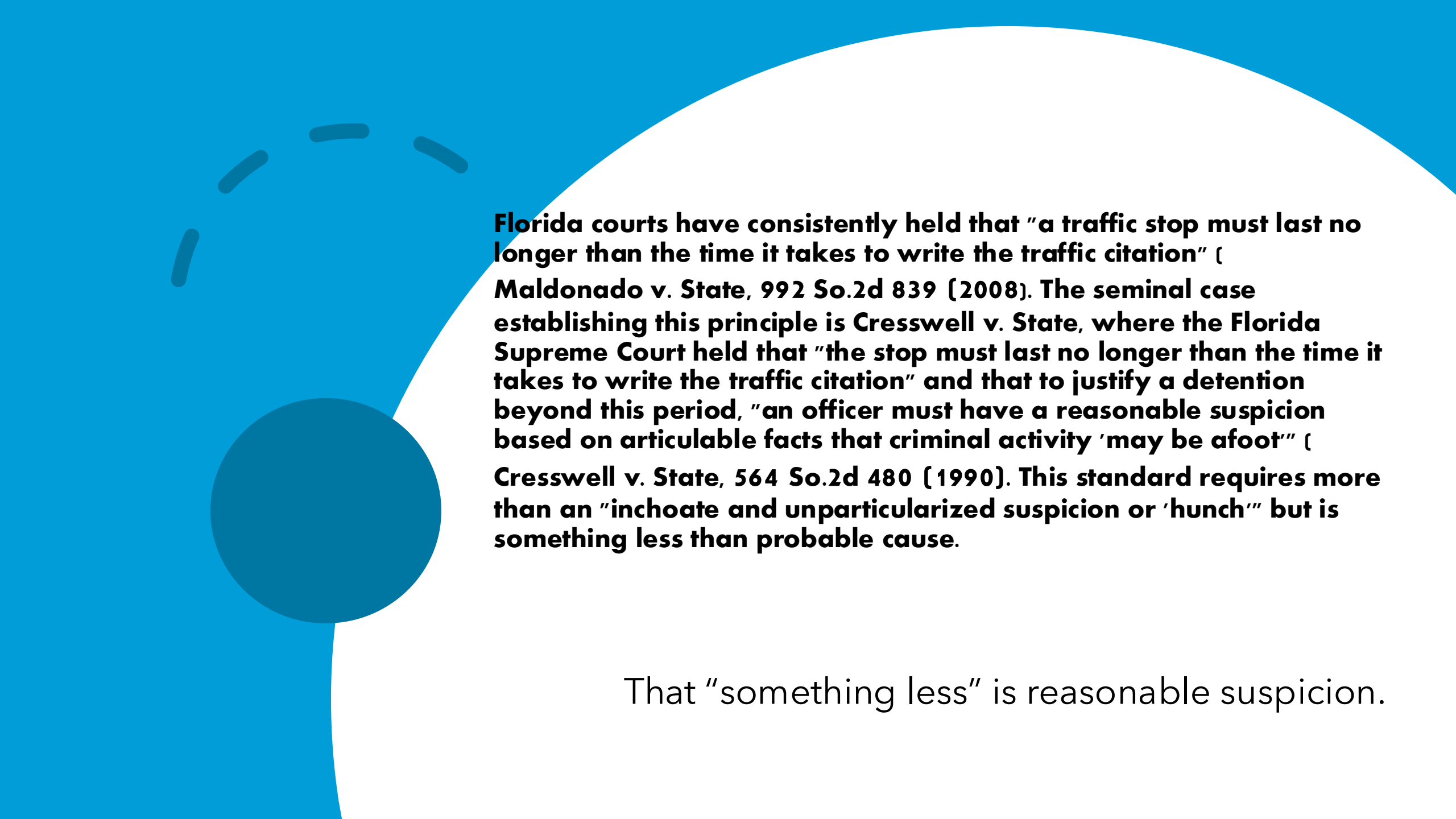
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Officer decides to issue a warning. Is there still PC for the stop?

- In Florida specifically, a traffic stop must be based on either probable cause of a traffic infraction or reasonable suspicion of criminal activity. The issuance of a ticket is not a prerequisite for the stop to be lawful if probable cause exists. Florida courts have upheld stops where the officer observes a traffic violation or equipment defect, such as improper window tint or expired tags, establishing probable cause. The officer is entitled to rely on these objective bases when making the stop and need not anticipate or rule out possible defenses for the driver. The stop's validity hinges on whether the officer's articulated basis for the stop objectively justifies the detention, regardless of whether a citation is ultimately issued.

The background features several abstract geometric shapes. A large blue semi-circle is on the right side. A solid green circle is in the upper left. A green dashed line is in the lower left. A green square outline is on the left. A green triangle outline is at the top. A green vertical dashed line is on the far left. A green circle is at the top right.

**Is the stop over
and does that
matter?**



Florida courts have consistently held that “a traffic stop must last no longer than the time it takes to write the traffic citation” { *Maldonado v. State*, 992 So.2d 839 (2008). The seminal case establishing this principle is *Cresswell v. State*, where the Florida Supreme Court held that “the stop must last no longer than the time it takes to write the traffic citation” and that to justify a detention beyond this period, “an officer must have a reasonable suspicion based on articulable facts that criminal activity ‘may be afoot’” { *Cresswell v. State*, 564 So.2d 480 (1990). This standard requires more than an “inchoate and unparticularized suspicion or ‘hunch’” but is something less than probable cause.

That “something less” is reasonable suspicion.

Reasonable suspicion

- The reasonable suspicion standard requires officers to possess "a particularized and objective basis" for suspecting criminal activity (*State v. Champers*, 125 So.3d 337 (2013)). The particularity requirement means that "the officer's suspicion must be grounded in specific, articulable facts," while the objectivity requirement means that courts must "view the facts and circumstances through the lens of a reasonable police officer giving due consideration to his or her training and experience" (*State v. Champers*, 125 So.3d 337 (2013)). Courts may also consider "rational inferences from those facts" when evaluating whether reasonable suspicion exists (*State v. Champers*, 125 So.3d 337 (2013)).

Totality of Circumstances Analysis

- Florida courts evaluate reasonable suspicion by examining "the totality of circumstances-the whole picture" (*Johnson v. State*, 696 So.2d 1271 (1997))

Observations of Officer



“The officer’s suspicion must be grounded in specific, articulable facts”



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Plain Smell Doctrine

In October 2025, the Florida Second District Court of Appeal issued a landmark decision in *Williams v. State*, holding that "given the Legislature's defining and legalizing discrete forms of cannabis on bases that are manifestly not discernable by smell, such as how it was procured, the mere odor of cannabis standing alone can no longer make it clearly or immediately apparent that the substance is contraband without conducting some further search" (*Williams v. State*, 421 So.3d 809 (2025))

Florida courts have recognized that while cannabis odor alone may be insufficient, it remains "a relevant factor to consider among the totality of the circumstances" (*Williams v. State*, 421 So.3d 860 (2025)).

Similarly, the Fifth District in *Ford v. State* emphasized that probable cause must be determined "based upon the totality of the circumstances" (*Ford v. State*, 400 So.3d 838 (2025))

Order to step out of the vehicle

Florida courts have firmly established that once a vehicle is lawfully stopped for a traffic violation, an officer may order the driver to exit the vehicle as a matter of course. In *State v. Benjamin*, the Fifth District Court of Appeal held that "a police officer may as a matter of course order the driver of a lawfully stopped car to exit his vehicle".

State v. Benjamin, 229 So.3d 442 (2017). The court emphasized that this represents a bright-line rule, meaning officers need not articulate a particularized basis to believe the driver poses a threat to officer safety
State v. Benjamin, 229 So.3d 442 (2017).

This principle applies regardless of whether the officer has reasonable suspicion of criminal activity beyond the traffic infraction that justified the initial stop (*Reid v. State*, 898 So.2d 248 (2005)).

A stylized sun graphic on the left side of the slide. It features a solid dark blue circle representing the sun's disk, surrounded by several short, horizontal blue dashes of varying lengths, suggesting rays. The background is a light blue gradient with a white curved shape on the right side.

Use of Handcuffs during detention?

The use of handcuffs during a traffic stop does not automatically convert a temporary detention into a formal arrest, but it is a significant factor in the objective determination of custody. Courts assess whether a reasonable person would perceive that they were under arrest or merely detained. Handcuffing is generally considered a strong indicator of arrest since it conveys restriction of freedom akin to formal custody. However, handcuffing may be permissible during an investigative detention if justified by officer safety concerns or specific behaviors indicating threat or flight risk. Important factors include the nature and duration of the stop, the officer's conduct and explanations, and the suspect's movements or flight risk.

We will talk more about the use of handcuffs when we discuss Miranda Warnings

The Search



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Lawful Authority to Search: Probable Cause, Consent, and Search Incident to Arrest

Probable Cause

In Florida, probable cause to search a vehicle under the automobile exception exists when the facts and circumstances within law enforcement officers' knowledge are sufficient to warrant a reasonable person to believe that the vehicle contains contraband or evidence of a crime. This standard permits warrantless searches of vehicles without requiring exigent circumstances beyond the inherent mobility of automobiles and the reduced expectation of privacy in vehicles.

Consent

In Florida, consent to search a vehicle must be voluntary and unequivocal, and law enforcement officers may request such consent during a lawful traffic stop without requiring reasonable suspicion or probable cause. The scope of consent is determined by objective reasonableness—what a typical reasonable person would have understood by the exchange between the officer and the suspect—and the consenting party may withdraw consent at any time during the search.

Search incident to arrest

Under Florida law, a search incident to arrest may lawfully occur before the formal arrest takes place, provided that the officer has probable cause to arrest the defendant at the time the search is conducted. The critical requirement is not the temporal sequence of search and arrest, but rather the existence of probable cause to arrest prior to the search. (State v. Brookins, 290 So.3d 1100 (2020))

Vehicle Searches and Containers within

- When a police officer makes a lawful custodial arrest of a vehicle occupant, the officer may search the entire passenger compartment and examine the contents of any containers found within it (State v. Gonzalez, 507 So.2d 772 (1987)). This bright-line rule does not depend on reasonable suspicion of criminal activity or probable cause beyond what justified the arrest itself (State v. Gomez, 951 So.2d 71 (2007))[2]. The term "container" includes "any object capable of holding another object," encompassing "closed or open glove compartments, consoles, or other receptacles located anywhere within the passenger compartment, as well as luggage, boxes, bags, clothing, and the like" (State v. Gonzalez, 507 So.2d 772 (1987)). However, this holding "does not encompass the trunk" (State v. Gonzalez, 507 So.2d 772 (1987)).
- Florida courts have applied this rule to uphold searches of locked glove compartments (State v. Gonzalez, 507 So.2d 772 (1987)), purses State v. Loftis, 568 So.2d 121 (1990), and duffel bags (State v. Gomez, 951 So.2d 71 (2007)) found in passenger compartments following lawful arrests. The permissible scope includes the entire passenger compartment and containers therein if the arrestee is within reaching distance of the car at the time of the search (Brown v. State, 24 So.3d 671 (2009)). However, recent case law has narrowed this exception, requiring that either the arrestee remains within reaching distance of the passenger compartment or that it is "reasonable to believe the vehicle contains evidence of the offense of arrest". (Brown v. State, 24 So.3d 671 (2009)).

MIRANDA WARNINGS



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Arrest



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Contraband



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Controlled Substances

- Possession vs. Possession with the Intent to Sell vs. Trafficking in a Controlled Substance.
- Marijuana - Prescription Card?
- Drug Paraphernalia
- Packaging for sale
- Presumptive testing/weights
- FDLE testing/weights



Firearm and Firearm Enhancements

- Concealed carry of a firearm

Florida Statute 790.01 - Third degree Felony - Legal since 2023

- Possession of a firearm by a convicted felon

Florida Statute 790.23 - Second Degree Felony - Status in Flux

- Possession of a firearm in the commission of a felony.

Florida Statute 790.07 - Whoever, while committing or attempting to commit any felony, displays, uses, threatens, or attempts to use any firearm or carries a concealed firearm is guilty of a felony of the second degree

- Armed Trafficking

Florida Statute 775.087 - Raises level of trafficking. Minimum mandatory 10 year sentence if "actually possessed" firearm during commission of crime.

Post arrest: So what Happens to Danny Defendant Now?

- Officer John E. Law writes his arrest affidavit
- Transport/Processing County Jail
- Eligibility for bond or Pre-trial release
- Charging Decision by State Attorney
- Arraignment
- Pre-trial motions and litigation (Focus of Week Two)
- Trial/Sentencing (Focus of Week Three)

