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January 6, 2020

The Honorable Chief Justice and
Associate Justices
Supreme Court of New Jersey
Richard J. Hughes Justice Complex
Trenton, New Jersey 08625

Re: State v. Darius J. Carter
Docket No. 083221

Honorable Chief Justice and Associate Justices:

Our office is in receipt of the Court's letter, dated December 6, 2019, requesting that we provide "supplemental letter briefs stating your respective positions as to whether there exists a rational basis for the underlying statute (N.J.S.A. 39:3-33), which arguably would authorize a motor vehicle stop where the parties stipulate that the vehicle had a frame on the rear license plate that obstructed the words 'Garden State,' and further agree that the plate's registration letters and numbers were not covered. Please also address whether the law may authorize arbitrary and discriminatory enforcement." Please accept this letter in lieu of a more formal response to the Court's inquiry.

POINT ONE

THERE IS A RATIONAL BASIS FOR N.J.S.A. 39:3-33 AS
KEEPING THE ENTIRE LICENSE PLATE UNOBSTRUCTED FURTHERS
VARIOUS STATE INTERESTS.

In New Jersey, the "rational basis test" requires a statute to be rationally related to the achievement of a legitimate state interest. Dandridge v. Williams, 397 U.S. 471 (1970). Under the rational basis standard, "legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest.'" Lawrence v. Texas, 539 U.S. 558, 579 (2003) (O'Connor, J., concurring) (quoting Cleburne v. Cleburne Living Ctr., Inc., 473 U.S. 432, 440 (1985)). This standard of review is "not a license for courts to judge the wisdom, fairness, or logic of legislative choices.'" Heller v. Doe, 509 U.S. 312, 319 (1993) (quoting FCC v. Beach Communications, Inc., 508 U.S. 307, 313 (1993)). "Nor does it authorize 'the judiciary [to] sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines.'" Id. at 319, (quoting New Orleans v. Dukes, 427 U.S. 297, 303 (1976) (per curiam)).

Statutes are presumed constitutional. "[T]he burden is on the one attacking the legislative arrangement to negative every

conceivable basis which might support it . . . ,’ whether or not the basis has a foundation in the record.” Heller, 509 U.S. at 320-21 (emphasis added) (quoting Lehnhausen v. Lake Shore Auto Parts Co., 410 U.S. 356, 364 (1973)). “A State . . . has no obligation to produce evidence to sustain the rationality of a statutory classification.” Id. at 320-21. Indeed, the Legislature’s decisions in creating a statutory scheme “‘may be based on rational speculation unsupported by evidence or empirical data.’” Id. at 320-21 (quoting FCC v. Beach Communications, Inc., 508 U.S. 307, 315 (1993)).

Courts “are compelled under rational-basis review to accept a legislature’s generalizations even when there is an imperfect fit between means and ends.” Id. at 320-21. “A classification does not fail rational-basis review because it “‘is not made with mathematical nicety or because in practice it results in some inequality.’” Id. at 320-21 (quoting Dandridge v. Williams, 397 U.S. 471, 485 (1970)). “The problems of government are practical ones and may justify, if they do not require, rough accommodations – illogical, it may be, and unscientific.” Metropolis Theatre Co. v. Chicago, 228 U.S. 61, 69 (1913).

Under the current New Jersey Motor Vehicle Code, “No person shall drive a motor vehicle which has a license plate frame or identification marker holder that conceals or otherwise obscures

any part of any marking imprinted upon the vehicle's registration plate or any part of any insert which the director, as hereinafter provided, issues to be inserted in and attached to that registration plate or marker." N.J.S.A. 39:3-33. In an unpublished opinion, the New Jersey Appellate Division held that the statute, "expressly prohibit[s] even the partial obscuring of the writings or markings on a license plate," and that it does not matter if only printed and not embossed characters are covered. State v. Devincentis, 2011 WL 2672012, 2 (2011).

There are numerous legitimate state interests furthered by N.J.S.A. 39:3-33, meeting the requirements of the rational basis test. First, the statute aids both law enforcement and civilian witnesses in making more certain observations about motor vehicles. For example, if someone is trying to make out a license plate from a higher angle, such as the vantage point of a truck or a bus, it might be very difficult to see the words "NEW JERSEY" at the top of the license plate, but the words "GARDEN STATE" at the bottom of the plate might be easily readable, provided they are not covered up by a license plate frame.

Moreover, if vehicle owners were allowed to cover up everything on their license plates except for the actual license plate number and the word "New Jersey," it might be very

difficult for law enforcement and civilians to quickly identify the license plate number as well as the State that issued the plate. The Legislature undoubtedly wanted to ensure not just that critical information on the plate would be readable, but also that it would be readable quickly, as vehicles are highly transitory and can disappear within a short period of time.

Moreover, the statute does not exist solely for law enforcement. It also exists for civilians who may need to identify and describe vehicles involved in accidents and crimes. For example, if a car is involved in a hit-and-run accident and a civilian witness attempts to record the partial plate information they observe. The witness may not be able to see the words "NEW JERSEY" because of the angle of their view, and may not be able to determine the color of the plate due to poor lighting or it being dark out; however, they might be able to clearly observe the words, "GARDEN STATE" under the license plate number. In that instance, the words "GARDEN STATE" might be very helpful in quickly identifying the plate as a New Jersey plate.

Second, certain vehicles are required to have license plates that have regulatory terms like "commercial" or "limousine" where most private passenger vehicle license plates say "GARDEN STATE." By requiring all the words to be visible,

the law ensures that the frame is not hiding words that may be mandatory on certain vehicles. The Division of Motor Vehicles also permits vehicle owners to put special identifiers in the place where the words "GARDEN STATE" such as alumni associations and professions. More relevantly, vehicle owners who are firefighters or first aid workers can indicate that on their license plate. It is important for law enforcement officers to be able to observe such designations in the instance that the vehicles are responding to an emergency.

In sum, the statute prohibiting license plate frames that obscure or conceal any marking imprinted upon the vehicle's registration plate furthers legitimate state interests like aiding witness observations, maintaining highway safety and easing law enforcement monitoring. Defendant has not met his burden to show that there is no rational basis to enforce N.J.S.A. 39:3-33, as the Legislature's desire to maintain highway safety and aid law enforcement in their investigations, is rationally related to a legitimate State interest.

POINT TWO

N.J.S.A. 39:3-33 DOES NOT AUTHORIZE ARBITRARY AND DISCRIMINATORY ENFORCEMENT.

N.J.S.A. 39:3-33 functions as do all motor vehicle statutes and does not authorize arbitrary and discriminatory enforcement. When an officer performs a stop to investigate a potential violation under N.J.S.A. 39:3-33, they do not rely on observations of the driver or other occupants of the vehicle, but instead, of the vehicle. The enforcement of N.J.S.A. 39:3-33 is the same as the enforcement of any other motor vehicle statute where a police officer stops a vehicle pursuant to a reasonable suspicion that a motor vehicle violation has occurred. Not every driver who travels over the speed limit gets a ticket, not every car with tinted windows is stopped, and not every person who drives with a license plate cover is issued a ticket. Law enforcement simply cannot stop and cite every violation of a motor vehicle regulation that occurs. Some violations are not observed, or in some instances an officer exercises discretion not to stop an individual, or to stop them and give them a warning rather than a ticket. The age, gender, race or any other feature of the driver plays no role in the observations required for the enforcement of each of those motor vehicle statutes. Additionally, the law permits an individual

defendant who believes they were unfairly stopped or ticketed to allege that the motor vehicle stop was pretextual and thus illegal. Thus, there is nothing about N.J.S.A. 39:3-33 and the relevant case law, which makes clear that a frame that covers any writing on the license plate, that permits arbitrary or discriminatory enforcement.

Respectfully submitted,

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/s/ Nicole Handy

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