

No. 13-604

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**In the Supreme Court of the United States**

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NICHOLAS BRADY HEIEN, PETITIONER

*v.*

STATE OF NORTH CAROLINA

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*ON WRIT OF CERTIORARI  
TO THE SUPREME COURT OF NORTH CAROLINA*

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**BRIEF FOR THE UNITED STATES  
AS AMICUS CURIAE SUPPORTING RESPONDENT**

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### **QUESTION PRESENTED**

Whether a law enforcement officer's reasonable but mistaken view of the law can support a traffic stop under the Fourth Amendment.

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**BRIEF FOR THE UNITED STATES  
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## INTEREST OF THE UNITED STATES

This case presents the question whether a law enforcement officer violates the Fourth Amendment by performing a traffic stop based on a reasonable but mistaken interpretation of the law. Federal officers perform traffic stops, and evidence of federal crimes obtained through such stops is used in federal prosecutions. Accordingly, the United States has a substantial interest in the resolution of this question.

## STATEMENT

1. a. On April 29, 2009, Sergeant Matt Darisse, a 20-year veteran of a North Carolina sheriff's department, J.A. 13-14, stopped the Ford Escort in which petitioner was a passenger after observing that one of the car's brake lights was not functional. Pet. App. 2a. After stopping the car, Sergeant Darisse told the

driver, Maynor Javier Vasquez, the reason for the stop. *Ibid.* He checked Vasquez's driver's license and the car's registration and issued a warning ticket. *Ibid.* During the stop, Sergeant Darisse began to suspect that the Escort might contain contraband. *Ibid.* Vasquez appeared nervous. *Id.* at 29a-30a. When questioned, Vasquez and petitioner gave conflicting information about their destination. *Id.* at 2a-3a.

Sergeant Darisse asked Vasquez for permission to search the Escort. Pet. App. 3a. Vasquez said he had no objection, but that the car belonged to petitioner. Sergeant Darisse then obtained petitioner's consent. *Ibid.* A search revealed cocaine. *Ibid.* Petitioner and Vasquez were arrested on drug trafficking charges. *Ibid.*

b. North Carolina's provisions bearing on brake lights had not been authoritatively construed when petitioner's car was stopped. The first provision requires that "[e]very motor vehicle \* \* \* have all originally equipped rear lamps or the equivalent in good working order, which lamps shall exhibit a red light plainly visible under normal atmospheric conditions from a distance of 500 feet to the rear of such vehicle." N.C. Gen. Stat. § 20-129(d) (2009).

A second provision mandates that any car operated on a state highway "be equipped with a stop lamp on the rear of the vehicle" that "may be incorporated into a unit with one or more other rear lamps." N.C. Gen. Stat. § 20-129(g) (2009). The stop lamp must "be actuated upon application of the service (foot) brake" and must "display a red or amber light visible from a distance of not less than 100 feet to the rear in normal sunlight." *Ibid.* An additional provision requires that



rear “[b]rake lights” have red lenses. *Id.* § 20-129.1(9).

2. After his arrest, petitioner moved to suppress the cocaine seized from his vehicle on Fourth Amendment grounds. Pet. App. 3a. The trial court denied the suppression motion, concluding, as relevant here, that the stop of petitioner’s vehicle was permissible because Sergeant Darisse had a “reasonable and articulable suspicion that the subject vehicle and the driver were violating the laws of [North Carolina] by operating a motor vehicle without a properly functioning brake light.” J.A. 8-9.

Petitioner then entered a conditional guilty plea to two counts of attempted trafficking in cocaine, while reserving his right to appeal the denial of his suppression motion. Pet. App. 31a.

3. The state court of appeals reversed petitioner’s conviction, concluding that Sergeant Darisse and the court below had misunderstood North Carolina traffic law and that the mistake rendered the stop of petitioner’s car unconstitutional. Pet. App. 29a-40a. For the first time, the court concluded that a broken brake light did not violate North Carolina law so long as another brake light functioned. *Id.* at 39a. The court emphasized that the mandatory brake-light provision demanded only “a stop lamp” and described the method in which “[t]he stop lamp” should be actuated. *Id.* at 34a (quoting N.C. Gen. Stat. § 20-129(g) (2009) (emphasis omitted)). The court concluded that the separate provision requiring that all “rear lamps” be kept in working order did not apply to brake lights in the rear of the car. *Id.* at 36a.

The state court of appeals held that because Sergeant Darisse had stopped petitioner’s car for conduct

that the court ultimately concluded was not criminal, “the justification for the stop was objectively unreasonable, and the stop violated [petitioner’s] Fourth Amendment rights.” Pet. App. 39a. The court vacated petitioner’s conviction and ordered the suppression of the cocaine seized from petitioner’s car. *Id.* at 40a.

4. a. The state supreme court reversed. Pet. App. 1a-20a. Because the State had sought review only of the appellate court’s Fourth Amendment holding, the state supreme court proceeded from the premise that North Carolina law required only a single working brake light. *Id.* at 7a. The court concluded, however, that because Sergeant Darisse’s mistake of law had been reasonable, the stop of petitioner’s car did not violate the Fourth Amendment. *Id.* at 20a.

The state supreme court’s starting point was that the “primary command of the Fourth Amendment” is “that law enforcement agents act reasonably.” Pet. App. 13a (citing *Delaware v. Prouse*, 440 U.S. 648, 653-654 (1979)). It is reasonable, the court concluded, for officers to make investigative stops when they observe conduct that they reasonably understand to violate the law, even if their understandings later turn out to be mistaken. *Id.* at 13a-15a. The court found a strong public interest in this rule: “[B]ecause we are particularly concerned for maintaining safe roadways, we do not want to discourage our police officers from conducting stops for perceived traffic violations.” *Id.* at 14a. A contrary approach, the court reasoned, would “undermine our officers’ important efforts in keeping our roads safe” because it would “require our law enforcement officers to narrowly interpret our traffic safety statutes when deciding whether to conduct a stop.” *Ibid.*

The state supreme court acknowledged that citizens have an interest in avoiding mistaken traffic stops, but it found that the interest is not strong, because the intrusion of a traffic stop is modest. Pet. App. 14a. Indeed, the court reasoned that “most motorists would actually prefer to learn that a safety device on their vehicle is not functioning properly.” *Ibid.* The court accordingly concluded that a reasonable but mistaken construction of the traffic law supplies a valid basis for a car stop, “particularly when judged against society’s countervailing interest in keeping its road safe.” *Ibid.*

The state supreme court found this result supported by decisions emphasizing that the reasonable suspicion standard requires only “some minimal level of objective justification” for a car stop. Pet. App. 16a (quoting *United States v. Sokolow*, 490 U.S. 1, 7 (1989)). The court reasoned that “[t]o require our law enforcement officers to accurately forecast how a reviewing court will interpret the substantive law at issue” would not simply require “some minimal level of objective justification” from officers but would instead “mandate that they be omniscient.” *Ibid.*

Applying its constitutional holding, the state supreme court concluded that the stop of petitioner’s car was valid because it had been reasonable to interpret North Carolina law to require that all brake lights be in working condition. Pet. App. 18a-19a. After reviewing North Carolina’s provisions on brake lights and noting the absence of any contrary authority, the court stated that because “Sergeant Darisse could have reasonably believed that he witnessed a violation of [the State’s] motor vehicle laws when he observed that the Escort had an improperly functioning brake

light,” Sergeant Darisse had “reasonable, articulable suspicion to conduct the traffic stop of the Escort in this case.” *Id.* at 19a. The court reversed the suppression order and remanded the case for consideration of petitioner’s separate challenge to his consent to the car search. *Id.* at 20a.

b. Judge Hudson dissented, joined by two other justices. Pet. App. 20a-28a. The dissenting justices found “no doubt” that Sergeant Darisse’s interpretation of state law had been reasonable. *Id.* at 20a. Indeed, Judge Hudson described the state court of appeals’ construction of the law as “surprising,” and he surmised that before the appellate decision, “most citizens of this state” would have “believed that a malfunctioning brake light represented legal grounds for a traffic stop and a citation.” *Ibid.* The dissenters also concluded that “[o]f course” it was “reasonable that an officer would pull over a vehicle for a malfunctioning brake light.” *Id.* at 22a. Nonetheless, the dissenters concluded that the stop was an unreasonable seizure under the Fourth Amendment, expressing concern that a contrary rule would make the validity of stops depend on “subjective motivation,” *ibid.*, raise separation of powers problems, and forgive even unreasonable mistakes, such as legal interpretations based on “simple misreadings” or “improper trainings,” *id.* at 27a.

5. On remand, the state court of appeals rejected petitioner’s challenge to his consent to search and reinstated his convictions. Pet. App. 42a-56a. The state supreme court affirmed in a per curiam order. *Id.* at 41a.

### SUMMARY OF ARGUMENT

When a law enforcement officer reasonably believes that a crime has been committed, but uncertainties of fact or law remain, the Fourth Amendment allows the officer to make a seizure to start the judicial process, thereby ensuring that contested questions of fact and unsettled questions of law are decided after full and fair proceedings in a court.

A. Under the Fourth Amendment, seizures are constitutional when they are reasonable. Whether a seizure is reasonable depends on a balancing of governmental and private interests at the time the seizure is made. The balancing is not in doubt for certain seizures. Under the probable cause standard, an officer may make an arrest based on a “fair probability” or “substantial chance” of criminal activity, in light of the information available at the time of the arrest. And under the reasonable suspicion standard, an officer may make a car stop or briefly detain a person based on the lesser showing of a minimal level of objective justification. By allowing seizures to start the judicial process in cases of uncertainty—even if officers’ reasonable judgments are later deemed incorrect—these standards ensure that uncertain cases may be brought before the courts to be decided based on fact-finding and legal briefing, rather than pretermitted by officers in the field.

B. Decisions from the Founding forward establish that these standards allow officers to make the seizures that enable them to bring cases of legal uncertainty before the courts, so long as they act reasonably. The Court held as much in its earliest cases construing the probable cause standard. In 1809, Chief Justice Marshall determined that officers had proba-

ble cause for a seizure despite a mistake of law, explaining that “[a] doubt as to the true construction of the *law* is as reasonable a cause for seizure as a doubt respecting the fact.” *United States v. Riddle*, 9 U.S. (5 Cranch) 311, 313. Later cases routinely found probable cause when officers acted based on reasonable but ultimately mistaken readings of the law.

This Court adopted that principle in the constitutional context in *Michigan v. DeFillippo*, 443 U.S. 31 (1979). The Court in that case found that an arrest was constitutionally valid under the probable cause standard although the criminal provision underlying the arrest was later determined to be unconstitutional. Because the arresting officer had probable cause to believe that a crime had occurred in light of the statute, the Court concluded, the officer had satisfied “the constitutional prerequisite for an arrest.” *Id.* at 37. *DeFillippo* establishes that an arrest based on a reasonable, but mistaken, understanding of the law meets the standards of the Fourth Amendment.

C. Permitting officers to perform car stops when they observe conduct they reasonably believe to violate the law properly balances public and private interests. Petitioner does not dispute that these interests are properly balanced when an officer performs a car stop based on a reasonable view of uncertain facts, even if the view turns out to be mistaken. The same interests support permitting stops when the law is uncertain. Car stops intrude on private interests, but they do so in a modest manner. And the public has strong interests in permitting officers to start the judicial process in conditions of uncertainty, so long as they act reasonably in believing that criminal activity is afoot. Doing so ensures that difficult questions will

be resolved after full and fair proceedings in court, not finally decided by officers in the field. And it ensures that when officers' reasonable views are correct, criminal activity and other dangerous conditions are appropriately addressed.

D. The constitutional standard is compatible with maxims of statutory construction used to determine defendants' substantive liability. Permitting officers to make seizures that start the judicial process in cases where the law is not yet settled does not contradict the maxim that "ignorance of the law is no excuse," because it does not make an officer's duties turn on his subjective awareness of the law. Rather, officers may make a stop or arrest to start the judicial process only when, if their view of the law turns out to be mistaken, the law was objectively uncertain and the officers' position was reasonable. Similarly, permitting officers to start the judicial process based on a substantial probability of criminal activity ensures accurate application of the rule of lenity and void-for-vagueness doctrines by judges after adversarial briefing, instead of by officers on the fly.

E. This Court's recent good-faith cases have not overruled its probable cause or reasonable suspicion decisions. Those decisions concluded that the drastic exclusionary remedy is unwarranted in the absence of significant wrongful conduct. But this Court has reaffirmed, in applying the good-faith exception, that some reasonable mistakes do not violate the Fourth Amendment in the first place.

F. When the officer in this case saw what he understood to be a vehicle on the road in a dangerous and illegal condition, he was permitted to stop the car, because his construction of the traffic law was a rea-

sonable one. The state supreme court squarely held that the officer’s view of state law was reasonable, and its assessment of its own law should not be lightly disturbed. In any event, the court was correct, because North Carolina’s provisions permitting brake lights to be “incorporated into a unit with one or more other rear lamps,” N.C. Gen. Stat. § 20-129(g) (2009), and mandating that “all originally equipped rear lamps” be “in good working order,” *id.* § 20-129(d), strongly suggest that rear brake lamps are “originally equipped rear lamps” that must be kept in working condition. Because the officer in this case acted on a reasonable view of the law, the Constitution did not bar the modest intrusion of a vehicle stop.

#### ARGUMENT

#### THE STOP OF PETITIONER’S CAR WAS REASONABLE UNDER THE FOURTH AMENDMENT

##### A. An Officer Who Reasonably Believes He Has Observed Conduct That Violates The Law May Perform A Car Stop, Even If His Belief Turns Out To Have Been Mis- taken

Because it protects against “unreasonable searches and seizures,” the “ultimate touchstone of the Fourth Amendment is reasonableness.” *Riley v. California*, 134 S. Ct. 2473, 2482 (2014) (quoting *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006) (internal quotation marks omitted)). Absent more precise Founding-era guidance, whether a seizure is reasonable depends on a “balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the countervailing governmental interests \* \* \* at stake.” *Plumhoff v. Rickard*, 134 S. Ct.



2012, 2020 (2014) (citation omitted); see also, *e.g.*, *United States v. Knights*, 534 U.S. 112, 119 (2001).

The outcome of that balancing is “not in doubt” for certain types of seizures. *Whren v. United States*, 517 U.S. 806, 817 (1996). It is constitutionally reasonable for officers to make an arrest or other temporary seizure to start the judicial process when they have probable cause to believe that a suspect has committed a crime. See, *e.g.*, *ibid.*; *Carroll v. United States*, 267 U.S. 132, 157 (1925) (compiling historical authorities). That standard requires only a “fair probability” or “substantial chance” of criminal activity. *Illinois v. Gates*, 462 U.S. 213, 238, 244 n.13 (1983). The assessment is made “in light of the information available to [officers] at the time they acted.” *Maryland v. Garrison*, 480 U.S. 79, 85 (1987); see also *Beck v. Ohio*, 379 U.S. 89, 91 (1964). Probable cause thus allows for “the mistakes \* \* \* of reasonable men, acting on facts leading sensibly to their conclusions of probability.” *Brinegar v. United States*, 338 U.S. 160, 176 (1949). When an officer reasonably concludes that a crime has occurred but turns out later to have been incorrect, his mistake does not render the initial intrusion unconstitutional because only “sufficient probability, not certainty” of criminal activity is required. *Hill v. California*, 401 U.S. 797, 804 (1971).

The Court has explained that this toleration for reasonable mistakes “represents a necessary accommodation between the individual’s right to liberty and the State’s duty to control crime.” *Gerstein v. Pugh*, 420 U.S. 103, 112 (1975). By permitting officers to make initial seizures that start the judicial process in cases of uncertainty, the probable cause standard allows conduct reflecting a substantial likelihood of a

criminal violation to be brought before the courts for adjudication based on fact-finding and legal briefing. In contrast, a rule under which officers act unconstitutionally when their reasonable beliefs concerning the existence of crimes later turn out to be incorrect would “unduly hamper law enforcement,” *ibid.* (citation omitted), by deterring officers from starting the judicial process in the face of any *ex ante* uncertainty.

The reasonable suspicion standard applicable to car stops and other brief detentions also allows for reasonable mistakes. Because car stops and other brief detentions are less intrusive than arrests, they may be conducted based only on reasonable suspicion of criminal activity, which requires “‘obviously less’ than is necessary for probable cause.” *Navarette v. California*, 134 S. Ct. 1683, 1687 (2014) (citation omitted). Reasonable suspicion requires only “a particularized and objective basis for suspecting the particular person stopped of criminal activity,” *ibid.*, or “some minimal level of objective justification,” *United States v. Sokolow*, 490 U.S. 1, 7 (1989) (citations omitted). The “only difference” between probable cause and reasonable suspicion is “the level of suspicion that must be established.” *Alabama v. White*, 496 U.S. 325, 330-331 (1990).

**B. Seizures Based On Reasonable But Mistaken Views Of  
The Law Have Long Been Understood To Satisfy  
Probable Cause**

Because the choice between reasonable interpretations of the law should be made by courts after full and fair proceedings, courts since the Founding have ruled that officers are justified in making the brief seizures that start the judicial process when they act based on reasonable interpretations of the law, even

when their reasonable views later turn out to be mistaken. That Founding-era understanding carries great weight in determining what is “reasonable” under the Fourth Amendment. See, *e.g.*, *Wilson v. Arkansas*, 514 U.S. 927, 931 (1995).

1. Reasonable but ultimately mistaken views of the law have been understood since the Founding to satisfy not simply the low bar of reasonable suspicion but the higher bar of probable cause. The earliest cases construing probable cause arose under statutes that authorized courts to issue certificates indemnifying customs officers and revenue officials against suits for damages. See, *e.g.*, Act of Mar. 2, 1799, ch. 22, § 89, 1 Stat. 695 (1799 Collections Act); Act of July 31, 1789, ch. 5, § 36, 1 Stat. 47 (1789 Collections Act); Act of Feb. 24, 1807, ch. 19, § 1, 2 Stat. 422 (Act of 1807). The certificates were to be issued on a showing of “reasonable cause”—a synonym for probable cause. 1789 Collections Act § 36, 1 Stat. 47; Act of 1807 § 1, 2 Stat. 422; see *Stacey v. Emery*, 97 U.S. 642, 646 (1878) (noting that reasonable cause and probable cause are synonyms); see also, *e.g.*, *United States v. Riddle*, 9 U.S. (5 Cranch) 311, 313 (1809); *Locke v. United States*, 11 U.S. (7 Cranch) 339, 348 (1813). These statutes invoked legal terms of art. Probable cause had “a fixed and well known meaning,” Chief Justice Marshall explained, and it was “[i]n this, its legal sense, the Court must understand the term to have been used by Congress.” *Locke*, 11 U.S. (7 Cranch) at 348.

This Court has accordingly relied on the Founding-era cases under these statutes to determine the meaning of probable cause as it was used in the Fourth Amendment. The preeminent constitutional cases

concerning probable cause have cited decisions under these statutes to give meaning to the constitutional standard. See, *e.g.*, *Brinegar*, 338 U.S. at 175-176 & nn. 14, 15 (relying on formulation of probable cause in *Locke* and similar formulation in *Stacey*); *Carroll*, 267 U.S. at 159-162 (relying on formulations of probable cause in four cases arising under early forfeiture statutes); *Gates*, 462 U.S. at 235 (relying on formulation in *Locke*); see also *Virginia v. Moore*, 553 U.S. 164, 168 (2008) (noting Court “look[s] to the statutes \* \* \* of the founding era to determine the norms that the Fourth Amendment was meant to preserve”).<sup>1</sup>

The cases leave no doubt that at the time the Fourth Amendment was written, the probable cause standard permitted law enforcement officers to make the initial seizures that start the judicial process based on conduct they reasonably understood to be illegal, even if the officers were ultimately proven mistaken in their reading of the law. This Court first reached that holding in *United States v. Riddle*, *supra*. There, a customs collector seized certain goods because he believed that a merchant who arranged their importation had violated a customs statute by creating a set of false invoices, even though the consignee declared the goods’ true value to customs offi-

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<sup>1</sup> Because the early customs seizure statutes were enacted virtually contemporaneously with the passage of the Fourth Amendment, scholars have treated these statutes as “nothing less than a statutory exegesis \* \* \* on the Fourth Amendment.” William J. Cuddihy, *The Fourth Amendment: Origins and Original Meaning 602-1791* 737-738 (2009); see also, *e.g.*, Akhil Reed Amar, *Fourth Amendment First Principles*, 107 Harv. L. Rev. 757, 766-767 (1994) (using seizure provisions of 1789 Collections Act and similar statutes in 1790, 1793, and 1799 to illuminate meaning of Fourth Amendment).

cials. 9 U.S. (5 Cranch) at 311. This Court held that the collector was incorrect to believe the false invoices violated the statute, concluding that “[t]he law did not intend to punish the *intention*, but the *attempt* to defraud the revenue.” *Id.* at 312. Nevertheless, Chief Justice Marshall concluded that the customs inspector was entitled to a “certificate of probable cause” for the seizure because “the construction of the law was liable to some question.” *Id.* at 313. “A doubt as to the true construction of the *law*,” Chief Justice Marshall explained, “is as reasonable a cause for seizure as a doubt respecting the fact.” *Ibid.*

Chief Justice Marshall and Justice Story each found probable cause in cases involving mistakes of law in a pair of cases decided three years later. In *Schooner Paulina’s Cargo v. United States*, 11 U.S. (7 Cranch) 52 (1812) (*The Paulina*) and *The Friendship*, 9 F. Cas. 825 (C.C.D. Mass. 1812) (No. 5,125), customs inspectors seized ships and sought to forfeit their cargo because the ships had been loaded with goods without the permission of a revenue officer. After a lengthy statutory analysis, Chief Justice Marshall concluded for this Court that the statute at issue did not authorize officers to seize ships or forfeit cargo on this ground. *The Paulina*, 11 U.S. (7 Cranch) at 68. This Court nonetheless “certified that there was probable cause of seizure.” *Ibid.*

Justice Story explained the logic of this decision when he issued a certificate of probable cause in *The Friendship* to inspectors who seized a ship based on the same legal theory rejected in *The Paulina*. Justice Story found that under the logic of *The Paulina*, those inspectors, too, were entitled to a certificate of probable cause. *The Friendship*, 9 F. Cas. at 826. At

the time of the seizure, he explained, interpretation of the relevant provision had “been a vexata questio; judges in different districts have held opposite opinions, and until last February term of the supreme court, the question was still floating.” *Ibid.* The Court’s issuance of a certificate of reasonable cause in *The Paulina* “held in effect, that this act was so doubtful in construction, that collectors acting upon it ought to have the benefit of the certificate.” *Ibid.* Since the seizure of *The Friendship* had been made under the identical construction of unsettled law, Justice Story found himself “bound by the decision” in *The Paulina* “to certify that there was reasonable cause of seizure.” *Ibid.*

Decisions thereafter routinely found probable cause in cases in which officers acted on reasonable but mistaken views of unsettled legal questions. For instance, a Massachusetts court found that while a seizure was erroneous under a “true interpretation of law,” because the court was embracing “a new interpretation, and the officer may reasonably have been mistaken,” the officer was entitled to a certificate of reasonable cause. *United States v. Twenty-Six Diamond Rings*, 28 F. Cas. 288, 290 (D.C.D. Mass. 1855) (No. 16,572). Similarly, a New York court found an officer was mistaken in his reading of a statute, but nonetheless issued a certificate of probable cause, explaining that the legal question had “presented points of considerable intricacy and difficulty.” *United States v. The Recorder*, 27 F. Cas. 723, 723-724 (C.C.S.D.N.Y. 1849) (No. 16,130). And a Rhode Island court issued a certificate of probable cause because “real doubts exist[ed] as to the true construction of the law” and “the forfeiture was overruled only after a

careful scrutiny and serious difficulty in construing the law supposed to be violated.” *United States v. The Reindeer*, 27 F. Cas. 758, 768 (C.C.D.R.I. 1848) (No. 16,145).

Petitioner identifies no Founding-era cases establishing that Chief Justice Marshall, Justice Story, and their successors misunderstood probable cause. While petitioner identifies a smattering of state tort authority beginning in the mid-19th century that declined to excuse trespasses based on reasonable mistakes of law (Pet. Br. 15-16), isolated tort decisions from that period do not undercut the long line of cases from the Founding onward defining probable cause to allow reasonable mistakes of law. See, e.g., *Atwater v. City of Lago Vista*, 532 U.S. 318, 341 (2001) (noting that Founding-era history was not undercut by “several 19th-century decisions” evincing different view).

2. a. This Court adopted the historical conception of probable cause in the constitutional context in *Michigan v. DeFillippo*, 443 U.S. 31, 36 (1979), where it held that an officer had probable cause for an arrest despite a reasonable mistake of law. In *DeFillippo*, an officer arrested a man for violating a municipal law requiring certain persons to identify themselves to police. This Court concluded that the arrest was constitutionally valid, even though the municipal law was ultimately held void because it was unconstitutionally vague. *Id.* at 33, 37, 40.

The Court’s holding rested on a finding of probable cause. The Court explained that probable cause requires only “facts and circumstances within the officer’s knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, in believing, in the circumstances shown, that the suspect

has committed, is committing, or is about to commit an offense.” *DeFillippo*, 443 U.S. at 37. Judged against that standard, this Court found “abundant probable cause to satisfy the constitutional prerequisite for an arrest.” *Ibid.* Noting that the existence of the statute defining a crime could be seen as among the factors “pertain[ing] to the ‘facts and circumstances’ we hold constitute[] probable cause for arrest,” the Court concluded that once the defendant refused to identify himself to an officer, “the officer had probable cause to believe [the defendant] was committing an offense in his presence.” *Id.* at 40. The Court emphasized that the officer’s understanding of the law was reasonable, explaining that “[a] prudent officer \* \* \* should not have been required to anticipate that a court would later hold the ordinance unconstitutional.” *Id.* at 37-38. It distinguished cases in which “any person of reasonable prudence” would have known the statute was invalid and thus known the arrestee’s conduct to be innocent. *Id.* at 38. *DeFillippo* establishes that when officers have a reasonable, albeit incorrect, conception of what conduct is illegal, they may nevertheless have the “probable cause to satisfy the constitutional prerequisite for an arrest,” *id.* at 37—a level of proof greater than that required for the vehicle stop here.

b. Petitioner’s efforts to distinguish *DeFillippo* are unavailing. Petitioner does not dispute that the arrest in *DeFillippo*—like the seizure at issue here—was based on a mistake of law. While the arresting officer relied on “a presumptively valid ordinance,” 443 U.S. at 37, the later judicial declaration that the statute was unconstitutionally vague established that the state law did not actually define criminal conduct.



See, e.g., *Kolender v. Lawson*, 461 U.S. 352, 357 (1983) (applying “void-for-vagueness doctrine” to invalidate a stop-and-identify statute that provided insufficient clarity).

Petitioner instead proposes that *DeFillippo* should be read as a case concerning Fourth Amendment remedies, because the “true focus” of the case “was on the exclusionary rule.” Pet. Br. 28. As set out above, the decision belies this contention. Not only did *DeFillippo* hold that the arrest at issue had been supported by “abundant probable cause to satisfy the constitutional prerequisite for an arrest,” 443 U.S. at 37, but the bulk of its reasoning focused on probable cause, *id.* at 36-40. Its discussion of the costs of applying the exclusionary rule is a sentence in a footnote. *Id.* at 38 n.3.

Subsequent decisions reaffirm *DeFillippo*’s status as a Fourth Amendment holding. The Term after *DeFillippo* was decided, this Court explained that the case had “held that the Fourth and Fourteenth Amendments had not been violated” by the arrest at issue in *DeFillippo* because the arrest had been supported by probable cause. *Ybarra v. Illinois*, 444 U.S. 85, 96 n.11 (1979). Then, in a seminal exclusionary rule decision, the Court described *DeFillippo* as one of a number of “decisions *not* involving the scope of the [exclusionary] rule itself” that had nonetheless paid “attention to the purposes underlying the scope of the exclusionary rule.” *United States v. Leon*, 468 U.S. 897, 911 (1984) (emphasis added). Petitioner performs surgery to claim that sentence in *Leon* characterized *DeFillippo* “as a case only about suppression” (Br. 28), by quoting the Court’s observation that *DeFillippo* paid attention to the exclusionary rule (Br.

29), while omitting the portion of the same sentence stating that the holding in *DeFillippo* was one “not involving” the “scope of the rule itself.” 468 U.S. at 911 (emphasis added). And as recently as last year, this Court gave *DeFillippo* the same reading, concluding that the portion of that decision upholding a search incident to arrest was an application of the principle that “[t]he fact of a lawful arrest, standing alone, authorizes a search.” *Maryland v. King*, 133 S. Ct. 1958, 1971 (2013) (citation omitted).

Petitioner finally suggests that *DeFillippo*’s holding as to probable cause should be disregarded as a “relic,” because the case arose at “an earlier time, when this Court treated the issue whether to suppress evidence as ‘synonymous with’ the issue whether the Fourth Amendment was violated.” Pet. Br. 28 (quoting *Arizona v. Evans*, 514 U.S. 1, 13 (1995)). Petitioner misunderstands the cases described in *Evans*. As *Evans* makes clear, the error of certain decisions up until the mid-1970s was that they “reflexive[ly]” applied suppression without considering the remedy’s costs. See *Evans*, 514 U.S. at 13; *Davis v. United States*, 131 S. Ct. 2419, 2427 (2011). Those cases’ failure to weigh costs and benefits, see *ibid.*, diminishes the precedential force of their remedial holdings, not their merits holdings. See *Evans*, 514 U.S. at 13 (concluding that case in this period “clearly retains relevance in determining whether police officers have violated the Fourth Amendment” but “its precedential value regarding application of the exclusionary rule is dubious”).

In any event, this Court separated Fourth Amendment rights from remedies well before *DeFillippo*. See *Davis*, 131 S. Ct. at 2427; *Evans*, 514 U.S. at 13.

As this Court chronicled in *Davis* and *Evans*, while cases had reflexively applied the exclusionary rule until “[a]s late as” 1971, decisions beginning in the mid-1970s “rejected this reflexive application of the exclusionary rule.” *Ibid.* (citing cases beginning in 1974). These cases treated the question whether the exclusionary rule should be applied as separate from the question whether a Fourth Amendment violation occurred. See, e.g., *United States v. Janis*, 428 U.S. 433, 453 (1976); *Stone v. Powell*, 428 U.S. 465, 486 (1976); *id.* at 496-502 (Burger, C.J., concurring); *Brown v. Illinois*, 422 U.S. 590, 606 (1975) (Powell, J., concurring in part); *United States v. Calandra*, 414 U.S. 338, 351-352 (1974).

Indeed, in *DeFillippo* itself, rights and remedies were sharply defined as separate issues before the Court. The State made discrete arguments that *DeFillippo* had been subject to a valid arrest, see Pet. Br. at 6-13, *DeFillippo*, *supra* (No. 77-1680) (1978 WL 207262), and in the alternative, that the exclusionary rule should not apply to any violation, *id.* at 14-21. See also, e.g., ACLU Amicus Br. at 9, 18, *DeFillippo*, *supra* (No. 77-1680) (1978 WL 207265) (noting State’s “first argument concerns the legality of the arrest itself” and “second argument concerns the applicability of the exclusionary rule”). That the *DeFillippo* Court found no violation at all even though an exclusionary rule ground was presented as an alternative basis for decision strips plausibility from the claim that *DeFillippo*’s Fourth Amendment holding was mere inadvertence.

**C. The Settled Jurisprudence Allowing Seizures Based On Reasonable But Mistaken Understandings Of Law Properly Balances Fourth Amendment Interests**

1. While the cases stretching back to the Founding settle the question presented here, see *Moore*, 553 U.S. at 168, the rule that “[a] doubt as to the true construction of the *law* is as reasonable a cause for seizure as a doubt respecting the fact,” *Riddle*, 9 U.S. (5 Cranch) at 313, would also be justified in the absence of these authorities, because it properly balances the interests that underlie the Fourth Amendment. See, e.g., *Plumhoff*, 134 S. Ct. at 2020; *Moore*, 553 U.S. at 171.

It is well-settled—and not disputed by petitioner—that a vehicle stop (or even arrest) can be valid despite some “doubt respecting the fact.” *Riddle*, 9 U.S. (5 Cranch) at 313. Car stops intrude on private interests—albeit in a manner this Court has described as “modest,” *United States v. Brignoni-Ponce*, 422 U.S. 873, 880 (1975), “minimal,” *id.* at 881, and “slight,” *Michigan Dep’t of State Police v. Sitz*, 496 U.S. 444, 451 (1990). But because of the strong public interest in bringing suspects into court when criminal conduct is probable but not certain, a rule that allows for reasonable mistakes “afford[s] the best compromise that has been found for accommodating” public and private interests. *Brinegar*, 338 U.S. at 176.

The same balancing of interests justifies a stop when an officer’s belief about the substantive law is reasonable, but may be mistaken. On the private-interest side of the balance, the intrusion of a vehicle stop remains a modest one. Indeed, as the court below observed, many motorists would prefer to be briefly stopped when officers witness what they rea-

sonably believe to be a violation of traffic provisions that are aimed at protecting driver and passenger safety. Pet. App. 14a.

On the other side of the balance, the same interests that permit officers to start the judicial process based on a “substantial chance of criminal activity,” *Gates*, 462 U.S. at 244 n.13, when uncertainty exists about the facts support starting the judicial process when uncertainty exists about the substantive law. An initial seizure ensures that unsettled questions about the scope of criminal statutes will be resolved after full and fair legal proceedings, rather than pretermitted by officers on the fly. In addition, such seizures ensure that when officers’ reasonable views of the law are correct, criminal activity is appropriately sanctioned and dangerous conditions ameliorated—rather than left unaddressed because officers could be confident only of a substantial chance of criminal activity.

In contrast, a rule that found a constitutional violation whenever an officer made even a reasonable mistake of law would disserve public interests in precisely the same way as a rule that found a constitutional violation based on even a reasonable mistake of fact. Under either rule, officers seeking to avoid constitutional violations would be deterred from making arrests or stops in cases where they reasonably believed they had witnessed criminal activity, simply because they recognized some uncertainty as to the law or the facts. This would foreclose the judicial proceedings that can resolve uncertain questions with a higher level of accuracy than officers’ on-the-spot judgments. And criminal prohibitions would go unenforced even in cases where an officer’s reasonable view would ultimately prevail, simply because an officer could not

rule out, *ex ante*, the possibility that a court or factfinder would take a different view.

2. a. Petitioner’s arguments for differential treatment of mistakes of law and fact are unsound. Petitioner suggests (Br. 21) that the standards of probable cause and reasonable suspicion should allow for mistakes of fact, but not of law, because “[i]n contrast to factual inferences, legal analysis is not something that officers must do on the fly.” But situations presenting unexpected factual circumstances may also present unsettled legal questions that require quick action. Thus, the Court has treated the reality that probable-cause decisions are made “in the midst and haste of a criminal investigation” as a reason not to require high levels of refinement in officers’ legal conclusions, not just their factual ones. *Gates*, 462 U.S. at 235 (citation omitted) (declining to adopt complex standard for probable cause because legal rule must be applied in fast-developing circumstances); see also *Atwater*, 532 U.S. at 347 (declining to require consideration of state penalty schemes in arrest decisions because “the Fourth Amendment has to be applied on the spur (and in the heat) of the moment”).

Further, officers’ ability to familiarize themselves with the law does not eliminate uncertainty about the meaning of legal provisions. When a provision has not yet been authoritatively construed, uncertainty as to its meaning may remain no matter how much an officer studies and consults. Petitioner identifies no ready means for an officer witnessing an apparent traffic violation to obtain legal certainty before acting. Officers cannot, for example, file declaratory judgment actions to obtain definitive constructions of never-before-construed criminal laws. Rather, the time-

honored mechanism to place the issue before the court is to make the stop (or arrest) and let the judicial process begin.

b. Petitioner also argues (Br. 21) that it is less appropriate to allow for reasonable mistakes of law than for reasonable mistakes of fact because unlike factual assessments of criminal conduct, legal analysis is not something “that officers are better trained than the courts to undertake.” But it makes little sense for officers to be permitted mistakes in the area in which officers are specially trained, while “mandat[ing] that they be omniscient” in areas in which they are not expert. Pet. App. 16a. This Court has recognized as much, emphasizing that officers cannot be expected to act as expert “legal technicians,” *Navarette*, 134 S. Ct. at 1690 (quoting *Ornelas v. United States*, 517 U.S. 690, 695 (1996)), and that standards of probable cause must be defined so that they can be applied “on the basis of nontechnical, common-sense judgments of laymen.” *Gates*, 462 U.S. at 235-236; see also *Atwater*, 532 U.S. at 348; *Moore*, 553 U.S. at 175-176. That is a logical approach. Because judges, rather than officers, are best suited to resolve legal questions, it is particularly sensible to have legal questions open to reasonable disagreement settled by courts after briefing, rather than being decided finally by officers in the field.

c. The dissent below expressed a separate concern that the decision of the state supreme court would excuse mistakes of law not only “when the Court of Appeals divines a novel interpretation of a statute, but also” when mistakes “arise from simple misreadings of statutes, improper trainings, or ignorance of recent legislative changes.” Pet. App. 27a (Hudson, J., dis-

senting). But the requirement that mistakes of law be reasonable prevents that result. While an officer's approach to an open legal question may be reasonable when "overruled only after a careful scrutiny and serious difficulty in construing the law," see *The Reindeer*, 27 F. Cas. at 768, or when the officer took one of the logical views on a "vexata questio" on which even judges disagreed, see *The Friendship*, 9 F. Cas. at 826, an approach would not be reasonable if it lacked a foothold in the relevant statute, see, e.g., *United States v. \$45,000.00 in U.S. Currency*, 749 F.3d 709, 716-720 (8th Cir. 2014), or disregarded existing legal authority, see, e.g., *Twenty-Six Diamond Rings*, 28 F. Cas. at 290 (explaining that "if a second seizure be made, under similar circumstances" after legal issue was settled, court "shall not feel bound to grant a certificate" of probable cause). Because the Fourth Amendment tolerates only "the mistakes \* \* \* of reasonable men," *Brinegar*, 338 U.S. at 176, unreasonable mistakes of both fact and substantive law remain unconstitutional.

**D. This Court Should Not Rework The Fourth Amendment Based On Analogies To Other Areas Of Law**

Petitioner invokes various maxims for determining substantive criminal liability to argue for a different Fourth Amendment approach. But these maxims are fully compatible with the probable cause and reasonable suspicion standards, which serve the distinctive purpose of ensuring that possible criminal activity may be investigated and restrained so that ultimate liability can be adjudicated in full and fair judicial hearings.

1. Petitioner first notes that courts have applied the principle that "ignorance of the law is no excuse"



in determining criminal liability. Pet. Br. 17-18 (citation omitted). While subject to many exceptions, that maxim holds that a defendant's subjective awareness of the criminal law is not ordinarily relevant to his guilt. See generally 1 Wayne R. LaFare, *Substantive Criminal Law* § 5.6(a), at 394 (2d ed. 2003). As a result, criminal liability does not depend on proving a mental state that would be exceedingly difficult to establish. See, e.g., 1 John Austin, *Lectures on Jurisprudence* 498 (rev. 3d ed. 1869); Rollin M. Perkins, *Ignorance and Mistake in Criminal Law*, 88 U. Pa. L. Rev. 35, 41 (1939). The maxim applies to law enforcement officers and citizens alike: An officer who violates a criminal statute or police regulation violates the law regardless of whether he is aware of the law's existence.

The probable cause and reasonable suspicion standards are fully compatible with that maxim. These constitutional standards are objective. They permit officers to start the judicial process in cases where the law or facts are objectively uncertain and the officers' actions are objectively reasonable. See, e.g., *Gates*, 462 U.S. at 231. Officers' subjective awareness of the law, however, has no relevance under these doctrines. In other words, ignorance remains no excuse.

2. Petitioner also argues (Br. 18-19) that his rule accords with the rule of lenity and the void for vagueness doctrine. Those rules ensure that the narrower reading of a criminal statute will prevail when, after a court employs the ordinary tools of statutory construction, an enactment remains so grievously ambiguous "that the Court must simply guess as to what Congress intended," *United States v. Castleman*, 134

S. Ct. 1405, 1416 (2014) (citation omitted), or so vague that citizens would lack notice of what the law proscribed, see *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972). These rules do affect when officers may make an arrest to the extent that, if it is plain that an enactment is void or subject to the rule of lenity, it would be unreasonable for an officer to move forward with a stop or arrest. See *DeFillippo*, 443 U.S. at 38.

Petitioner’s constitutional rule, however, would preclude stops and arrests in a far broader swath of cases than those actually covered by lenity or vagueness principles.<sup>2</sup> Petitioner would deter officers from making seizures that start the judicial process not only when courts would in fact determine that these principles controlled the analysis, but in every case in which there was uncertainty about whether courts would find these (or other) statutory construction principles favored the defendant. Accurate application of the principles of statutory construction that petitioner cites is best achieved by the traditional rules of probable cause and reasonable suspicion, which permit officers to bring cases of uncertainty before judges for decision.

**E. This Court’s Good-Faith Decisions Do Not, And Should Not, Alter The Fourth Amendment’s Contours**

1. Petitioner also argues (Br. 24) that the Court abrogated the traditional approach toward reasonable

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<sup>2</sup> Only some jurisdictions include the rule of lenity among their canons of construction, see 1 Wayne LaFare, *Substantive Criminal Law* § 2.2, at 119 (2d ed. 2003), making it a particularly questionable tool for establishing a nationwide constitutional rule for officers’ conduct.

mistakes of law under the Fourth Amendment when it adopted a good-faith exception to the exclusionary rule. Petitioner misreads these cases. As petitioner acknowledges (Br. 23), the Court since the mid-1970s has treated the questions of Fourth Amendment rights and remedies as separate. See, *e.g.*, *Evans*, 514 U.S. at 10-12. In cases setting out the good-faith exception to the exclusionary rule, the Court has held that exclusion of evidence is an appropriate remedy only when exclusion's substantial social costs are outweighed by its deterrent benefits. *Id.* at 10-11. In performing this weighing, the Court has considered whether—assuming that a Fourth Amendment violation occurred—the violation reflected the type of “deliberate, reckless, or grossly negligent conduct, or in some circumstances recurring or systematic negligence” necessary to warrant the drastic exclusionary sanction. *Herring v. United States*, 555 U.S. 135, 144 (2009).

While this assessment has sometimes involved consideration of whether an officer acted reasonably, the Court's exclusionary rule decisions reaffirm—rather than repudiate—the longstanding principle that the probabilistic standards of probable cause and reasonable suspicion allow for reasonable mistakes. In each of its decisions applying good-faith analysis to seizures based on probable cause, this Court expressly noted that it was not deciding whether the Fourth Amendment was violated at all by the police conduct at issue, because that question was not presented. *Herring*, 555 U.S. at 138-139; *Evans*, 514 U.S. at 6 n.1; *Leon*, 468 U.S. at 904. The most recent of these decisions went further, expressly stating that the reasonable mistake at issue might not violate the Fourth

Amendment precisely because the probable cause standard allows for reasonable mistakes. *Herring*, 555 U.S. at 139. The Court explained that “[w]hen a probable-cause determination was based on reasonable but mistaken assumptions, the person subjected to a search or seizure has not necessarily been the victim of a constitutional violation” for “[t]he very phrase ‘probable cause’ confirms that the Fourth Amendment does not demand all possible precision.”<sup>3</sup> *Ibid.*

2. Petitioner suggests (Br. 29-33) that treating reasonableness as relevant only to good faith would be preferable. If this Court were to conclude that reasonable mistakes about the substantive law invalidate reasonable suspicion or probable cause, the Court’s precedents would provide strong support for application of the good-faith exception when the officers’ actions were objectively reasonable.<sup>4</sup> But a Fourth

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<sup>3</sup> Some types of mistakes of law violate the Fourth Amendment even when they are reasonable—for example, reasonable errors about the requirements of the Fourth Amendment itself. See, e.g., *Davis*, 131 S. Ct. at 2423-2424 (addressing reasonable reliance on Fourth Amendment precedent later abrogated by this Court). That is because an officer’s mistake about the Fourth Amendment cannot render constitutional the officer’s actions. Thus, as *DeFilippo* explained, when officers make reasonable legal errors unrelated to whether a crime has occurred—for example, by conducting searches pursuant to statutes or judicial precedent allowing unconstitutional searches—their mistakes do violate the Fourth Amendment. See 443 U.S. at 39. But this case involves a reasonable mistake about the substantive criminal law, and thus implicates the fundamental precept of probable cause: that probable cause depends on probabilities, not certainties, that a crime was committed. See pp. 10-12, *supra*.

<sup>4</sup> The exclusionary rule calculus turns on whether application of the rule achieves deterrent value sufficient to outweigh its social cost. See *Leon*, 468 U.S. at 906-907. When an officer reasonably

Amendment standard that “treat[s] all police mistakes the same,” Pet. App. 18a, is the simplest one. Such an approach is consistent with *Whren*, because whether an interpretation of law is objectively reasonable turns solely on analysis of the materials that courts would use in discerning the meaning of a statute. Petitioner’s approach would layer additional complexity onto this standard, because rather than simply requiring courts to assess whether a mistake was reasonable, petitioner would first require courts to classify mistakes as those of fact (relevant to rights) and those of law (relevant to remedy). That line can be difficult to draw, and similar mistakes will fall on each side of the line. See *ibid.* (noting difficulty in applying test); Resp. Br. 20-22 (cataloging examples); see also, *e.g.*, I.H.E. Patient, *Mistake of Law—A Mistake?*, 51 J. Crim. L. 326, 331 (1987) (noting widespread criticism of the “supposed distinction between ‘law’ and ‘fact’” and describing problematic cases).

Petitioner’s administrability critique (Br. 30-33) stems largely from the concern that the principle that “[a] doubt as to the true construction of the *law* is as reasonable a cause for seizure as a doubt respecting the fact,” *Riddle*, 9 U.S. (5 Cranch) at 313, requires courts to decide what legal errors are reasonable and what materials should inform that analysis. But this Court has not shied away from Fourth Amendment standards that require consideration of reasonable-

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believes that he has witnessed a traffic violation and has no means to abate it or determine the validity of his judgment without making a stop and invoking the judicial process, no appreciable or desirable deterrent value would be achieved by suppression if the courts later disagreed with the officer’s objectively reasonable misunderstanding of the law.

ness, because reasonableness is the “touchstone” of Fourth Amendment validity. See, *e.g.*, *Riley*, 134 S. Ct. at 2482; *King*, 133 S. Ct. at 1970. In any event, petitioner’s approach would not eliminate the need for the reasonableness inquiries he describes; he would simply treat inquiry into the reasonableness of mistakes of law as part of the remedial analysis. See, *e.g.*, Pet. Br. 23. This is not an administrability benefit—let alone a benefit sufficient to justify abandoning a historically grounded standard that appropriately balances public and private interests.

**F. The Stop of Petitioner’s Car Was Supported By Reasonable Suspicion**

Sergeant Darisse acted properly in stopping petitioner’s car based on his conclusion that petitioner’s broken brake light violated North Carolina law, because that conclusion was based on a reasonable view of an unsettled legal question. Every justice of the state supreme court agreed that Sergeant Darisse’s construction of the previously unconstrued provision was a reasonable one, with even the dissenters finding “no doubt” on this point. Pet. App. 20a (Hudson, J., dissenting). While the reasonableness of an intrusion under the Fourth Amendment is a question of federal law, when the answer to that question depends on assessing the legitimacy of a construction of state law, it would be strange to disturb a state court’s conclusion. See *Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975) (“[S]tate courts are the ultimate expositors of state law [and] we are bound by their constructions except in extreme circumstances.”) (citations omitted).

In any event, the conclusion of the state supreme court was plainly correct, as North Carolina law afforded substantial textual support for the view that

Sergeant Darisse took. At the time of the stop, North Carolina’s traffic code permitted brake lighting systems to be “incorporated into a unit with one or more *other* rear lamps,” N.C. Gen. Stat. § 20-129(g) (2009) (emphasis added), suggesting that brake lamps on the rear of a car qualify as rear lamps. The traffic code further mandated that each “motor vehicle \* \* \* have *all* originally equipped rear lamps or the equivalent in good working order.” *Id.* § 20-129(d) (emphasis added). These provisions together provide strong affirmative support for the position that brake lamps on the rear of the vehicle are “originally equipped rear lamps” that must be “in good working order.” *Ibid.* This reading finds additional support in other portions of state law prescribing the color of lenses on “[b]rake lights.” *Id.* § 20-129.1(9) (emphasis added).

The reasonableness of Sergeant Darisse’s view is confirmed by its prevalence. Cases involving similar stops had been adjudicated with no suggestion that a broken light was lawful. See *State v. Battle*, 525 S.E.2d 850, 852-853 (N.C. Ct. App. 2000). Indeed, the trial court in this case concluded that petitioner’s broken brake light violated North Carolina law. J.A. 8-9. Finally, as the state supreme court noted, Sergeant Darisse’s understanding of the law was “particularly reasonable” because it harmonized state requirements with federal ones, which require that passenger vehicles maintain two rear brake-lights. See Pet. App. 19a (citing 49 C.F.R. 571.108, at S.7.3.1 & tbl. I (2011)). In sum, because Sergeant Darisse’s view of the law was far from unreasonable, when he witnessed what he reasonably believed to be a dangerous and illegal condition, the Constitution permitted him to make a vehicle stop.

**CONCLUSION**

The judgment of the Supreme Court of North Carolina should be affirmed.

Respectfully submitted.

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