

## EXAMINERS' ANALYSIS OF QUESTION NO. 11

The Fourth Amendment provides:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

1. A traffic stop for a suspected violation of law is a "seizure" of the occupants of the vehicle and, therefore, must be conducted in accordance with the Fourth Amendment. *Brendlin v California*, 551 US 249, 255-259 (2007).

For the type of seizure involved here, a traffic violation stop, officers need only "reasonable suspicion"--that is "a particularized and objective basis for suspecting the particular person stopped" of breaking the law. *Prado Navarette v California*, 572 US \_\_\_, 134 S Ct 1683 (2014). Stated differently, police may stop a vehicle for a traffic violation, consonant with the Fourth Amendment.

The touchstone of the Fourth Amendment is "reasonableness" and, under this rubric, an officer stopping a vehicle for a traffic violation need not be absolutely right but in being wrong must be reasonable in mistake. *Riley v California*, 573 US \_\_\_, 134 S Ct 2473 (2014) and *Brinegar v United States*, 338 US 160, 176 (1949). Searches and seizures based on mistakes of fact can be reasonable.

2. The issue presented by Dirk's motion is whether a reasonable mistake of law is entitled to the same deference under the Fourth Amendment as mistakes of fact.

In *Heien v North Carolina*, 574 US \_\_\_, 135 S Ct 530 (2014), the United States Supreme Court held that for Fourth Amendment analysis a seizure based on a reasonable mistake of law nevertheless can be squared with the Fourth Amendment's requirement for reasonableness. Seeing little or no difference between reasonable mistakes of fact and reasonable mistakes of law in calculating reasonable suspicion, the Court upheld a stop

despite the officer's mistake about what a traffic ordinance required.

3. Applying *Heien's* holding to Dirk's argument yields the conclusion suppression is unwarranted. Dirk's counsel's argument, i.e. that a reasonable mistake of law cannot justify a seizure based on reasonable suppression for a traffic violation, cannot be squared with *Haigen*. So long as Officer Murphy's mistake of law was reasonable, the Fourth Amendment was not violated when he stopped Dirk's vehicle for having only one working brake light. Because the sole basis of Dirk's motion was his claim his truck was unconstitutionally stopped, his motion should be denied. Dirk does not even argue that Murphy's mistake of law was unreasonable, thereby leaving him no basis for suppression.