

15.4 Did the Officer Act within the Scope of the Seizure?

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15.4 Did the Officer Act within the Scope of the Seizure?

This section focuses on the restrictions on an officer’s investigation following a stop of a person based on reasonable suspicion. The same principles generally apply to stops for traffic violations, whether based on reasonable suspicion or probable cause. *See Arizona v. Johnson*, 555 U.S. 323, 330 (2009) (“most traffic stops . . . resemble, in duration and atmosphere, the kind of brief detention authorized in *Terry*” (citations omitted)); *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984) (“the usual traffic stop is more analogous to a so-called ‘Terry stop’ . . . than to a formal arrest”); *State v. Styles*, 362 N.C. 412, 414 (2008) (“Traffic stops have ‘been historically reviewed under the investigatory detention framework first articulated in *Terry*.” (citation omitted)).

A. Frisks for Weapons

Grounds for frisk. An officer who has reasonable suspicion to stop a person does not automatically have the right to frisk the person for weapons. The officer must have reasonable suspicion that the person has a weapon and presents a danger to the officer or others. *See Terry v. Ohio*, 392 U.S. 1 (1968); *State v. Pearson*, 348 N.C. 272 (1998) (officer did not have grounds for weapons frisk during traffic stop; defendant’s consent to search of car did not authorize frisk of person); *State v. Duncan*, 272 N.C. App. 341 (2020) (presence of pocketknife in center console of car did not render defendant dangerous, and officer otherwise lacked reasonable suspicion for frisk); *State v. Malachi*, 264 N.C. App. 233 (2019) (officers had reasonable suspicion to frisk defendant; anonymous tip reported that defendant had a gun and, when a marked patrol car arrived, defendant “bladed” his body and attempted to move away from the officer); *State v. Rhyne*, 124 N.C. App. 84 (1996) (insufficient grounds for weapons frisk; drugs discovered during frisk suppressed).

Factors. Circumstances to consider include:

- the nature of the suspected offense,
- a bulge in the person’s clothing,
- observation of an object that appears to be a weapon,
- sudden, unexplained movements by the person,
- failure to remove a hand from a pocket, and
- the person’s prior criminal record and history of dangerousness.

An officer likely does not have the authority to direct a suspect to empty his or her pockets as part of the officer’s authority to frisk. *See In re V.C.R.*, 227 N.C. App. 80 (2013) (directing juvenile to empty pockets was unlawful, nonconsensual search); Jeff Welty, [Empty Your Pockets](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Sept. 29, 2011). A frisk during a consensual encounter likewise would be unauthorized in most circumstances. *See* Jeff Welty, [Terry Frisk During a Consensual Encounter?](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Dec. 22, 2009).

B. Vehicles

Ordering driver to exit vehicle. On a stop based on reasonable suspicion, an officer may require the driver to exit the vehicle without specifically showing that requiring such an action was necessary for the officer’s protection. *See Pennsylvania v. Mimms*, 434 U.S. 106 (1977); *State v. Bullock*, 370 N.C. 256 (2017). *But see* 5 LAFAVE, SEARCH AND SEIZURE § 10.8(d), at 467–68 (in context of impaired-driving checkpoints, there is not automatically a need for self-protective measures and therefore an officer may not order a motorist out of a vehicle at such a checkpoint either as a matter of routine or on a hunch); Jeff Welty, [Traffic Stops, Part II](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Oct. 28, 2009) (questioning whether officer may routinely require occupant of vehicle to sit in patrol car during stop).

Ordering passengers to exit or remain in vehicle; frisking of passengers. In *Maryland v. Wilson*, 519 U.S. 408 (1997), the Court held that an officer making a traffic stop may order the passengers out of the car, without specific grounds, pending completion of the stop. The Court in *Wilson* expressed no opinion on whether an officer may automatically detain a passenger during the duration of the stop. *See Wilson*, 519 U.S. at 415 n.3. In *Arizona v. Johnson*, 555 U.S. 323 (2009), the Court indicated that officers may detain passengers to frisk them if they reasonably believe the passengers are armed and dangerous, observing that officers are not constitutionally obligated to allow a passenger to depart without first ensuring that they are not “permitting a dangerous person to get behind” them. *Id.* at 334; *see also Owens v. Kentucky*, 556 U.S. 1218 (2009) (court summarily vacates state court decision authorizing automatic pat down of passengers when officers arrest a vehicle occupant and are preparing to conduct search incident to arrest; case remanded). Relatedly, officers may order a passenger to remain temporarily in the vehicle for safety reasons. *State v. Shearin*, 170 N.C. App. 222 (2005) (majority finds that officer had grounds to order passenger to remain temporarily inside vehicle).

These decisions do not resolve whether officers may continue to detain passengers once they have addressed safety concerns. Cases after *Wilson*, although before *Johnson*, indicate that an officer must have reasonable suspicion to do so. *See State v. Brewington*, 170 N.C. App. 264 (2005) (officer had reasonable suspicion of criminal activity by passenger to require that passenger remain at scene).

Regardless whether officers may detain a passenger during a stop, a passenger may challenge the validity and duration of the stop and thus may suppress the results of any investigation after an invalid stop or unduly extended stop. *See supra* “Standing of passenger to challenge stop” in § 15.3E, Traffic Stops.

Sweep of interior of vehicle. Officers may conduct a protective sweep of the passenger compartment of a vehicle in areas where a weapon may be located—in other words, they may conduct a “vehicle frisk” but not a search for evidence—if the officers reasonably believe that the suspect is dangerous and may gain immediate control of a weapon. *See Michigan v. Long*, 463 U.S. 1032 (1983) (stating standard); *State v. Minor*, 132 N.C. App. 478 (1999) (officer had insufficient grounds to search car for weapons); *see also infra* § 15.6B, Search Incident to Arrest (discussing *Arizona v. Gant*, 556 U.S. 332 (2009), which precludes search of vehicle incident to arrest of occupant if purpose is to prevent occupant from obtaining weapon or destroying evidence and occupant has already been secured by officers).

For a further discussion of car sweeps, see Welty, [Traffic Stops](#), at 7 (reviewing cases and observing that “North Carolina’s appellate courts have been fairly demanding regarding reasonable suspicion in this context, several times finding ambiguously furtive movements, standing alone, to be insufficient”).

License, warrant, and record checks. *See* Welty, [Traffic Stops](#), at 7 (reviewing authorities and observing that “courts have generally viewed these checks, and the associated brief delays, as permissible” during a traffic stop); *see also infra* § 15.4E, Nature, Length, and Purpose of Detention.

C. Plain View

Generally, observations by officers of things in “plain view” do not constitute a search. Under the Fourth Amendment, a seizure is lawful under the plain view doctrine if the officer is lawfully in a position to observe the items and it is immediately apparent to the officer that the items are evidence of a crime, contraband, or otherwise subject to seizure. *See Horton v. California*, 496 U.S. 128 (1990) (discovery of evidence need not be inadvertent if these two conditions are met). *But see* G.S. 15A-253 (under North Carolina law, discovery of evidence in plain view during execution of search warrant must be inadvertent).

Shining a flashlight into a vehicle that has been lawfully stopped is ordinarily not considered a search, so objects that officers observe thereby are considered to be in plain view. *See Texas v. Brown*, 460 U.S. 730 (1983); *see also* 1 LAFAVE, SEARCH AND

SEIZURE § 2.2(b), at 639–40 (discussing limits on this doctrine—for example, officer may not open door to shine flashlight into car unless officer has grounds to open door); *Kyllo v. United States*, 533 U.S. 27 (2001) (use of sense-enhancing technology—in this case, a thermal imager that detected relative amounts of heat within home—constituted search).

A defendant still may have grounds to suppress plain-view observations if the initial stop was invalid or, at the time of the observation, the officer was engaged in activity beyond the scope of the stop.

D. “Plain Feel” and Frisks for Evidence

General prohibition. An officer who stops a person on reasonable suspicion may not frisk the person for evidence. *See Ybarra v. Illinois*, 444 U.S. 85 (1979).

“Plain feel” exception. Under what has come to be known as the “plain feel” doctrine, when an officer conducts a proper weapons frisk and has probable cause to believe that an object is evidence of a crime, then the officer may remove it. But, if an officer does not *immediately* recognize that the object is evidence of a crime, he or she may not manipulate or explore the object further; such action constitutes a search, which is not authorized as part of a weapons frisk. *See Minnesota v. Dickerson*, 508 U.S. 366 (1993) (officer’s continued exploration of lump until he developed probable cause to believe it was cocaine was an unlawful search); *In re D.B.*, 214 N.C. App. 489 (2011) (during frisk of juvenile for weapons, officer’s removal of credit card, which turned out to be stolen, was not permissible; officer could not seize card on basis that juvenile did not identify himself and officer believed that card was identification card); *State v. Williams*, 195 N.C. App. 554 (2009) (under “plain feel” doctrine, officer must have probable cause to believe object is contraband; reasonable suspicion is insufficient), *abrogated on other grounds by State v. Bartlett*, 368 N.C. 309 (2015); *State v. Wise*, 117 N.C. App. 105 (1994) (officer lawfully stopped vehicle for speeding and lawfully patted down defendant, but officer lacked probable cause to open non-transparent aspirin bottle that officer found on defendant); *State v. Beveridge*, 112 N.C. App. 688 (1993) (in frisking defendant for weapons, officer noticed cylindrical bulge that felt like plastic baggie; once officer determined that bulge was not weapon, he could not continue to search defendant to determine whether baggie contained illegal drugs), *aff’d per curiam*, 336 N.C. 601 (1994); *see also State v. Graves*, 135 N.C. App. 216 (1999) (warrantless search of wads of brown paper that fell from defendant’s clothing not justified under plain view doctrine because it was not immediately apparent that was contained contraband); *State v. Sapatch*, 108 N.C. App. 321 (1992) (under plain view doctrine, officers did not have probable cause to believe film canisters contained evidence of crime and, therefore, were not justified in opening canisters); *compare State v. Robinson*, 189 N.C. App. 454 (2008) (it was immediately apparent to officer that film canister contained crack cocaine).

Even if an officer has probable cause to remove an object when frisking a person for weapons, the officer may need a search warrant before inspecting the interior of the object. *See infra* “Containers” in § 15.6D, Probable Cause to Search Person.

E. Nature, Length, and Purpose of Detention

Generally. As a general rule, an investigative detention must be temporary and last no longer than necessary to effectuate the purpose of the stop. *See Florida v. Royer*, 460 U.S. 491 (1983) (officers exceeded limits of *Terry*-stop and required probable cause); *see also* G.S. 15A-1113(b) (an officer who has probable cause to believe a person has committed an infraction may detain the person for a reasonable period of time to issue and serve citation). The U.S. Supreme Court has recognized that even a minor or de minimis extension of a detention can result in a Fourth Amendment violation. *Rodriguez v. United States*, 575 U.S. 348, 354–57 (2015) (rejecting de minimis exception and requiring reasonable suspicion or voluntary consent to extend a completed traffic stop; canine sniff of car after the completion of a traffic stop was an illegal seizure). Whether an officer has exceeded this general limit has been the subject of considerable litigation after *Rodriguez*, discussed below.

Requests for consent and questioning. In *State v. Bullock*, 370 N.C. 256 (2017), the court held that questions asked during the course of normal incidents of a traffic stop (such as a license and warrant check), including asking for consent to search and investigation of other crimes unrelated to the purpose of the stop, were permissible only if they do not extend the duration of the stop. In *State v. Reed*, 373 N.C. 498 (2020), the court reiterated the duration limit, holding that a traffic stop cannot constitutionally last longer than is needed to carry out the mission of the stop without additional reasonable suspicion of a crime. Where the purpose of the stop’s mission has concluded, the defendant’s continued detention for questioning and consent to search is unlawful. *See* Jeff Welty, [Supreme Court of North Carolina: Officer Did Not Improperly Extend a Traffic Stop by Frisking a Driver and Ordering the Driver into a Patrol Car](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Nov. 6, 2017); Shea Denning, [Court of Appeals Reconsiders State v. Reed and Again Finds a Fourth Amendment Violation](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Jan. 17, 2018).

Numerous pre-*Rodriguez* cases addressed whether an officer’s questioning of a defendant or request for consent to search are permissible during a stop based on reasonable suspicion. These cases likely remain relevant after *Rodriguez*. In arguing that questioning or a request for consent were beyond the permissible scope of the stop, and therefore that evidence and information discovered as a result must be suppressed, the defendant is in the strongest position if the following factors are present: (1) the detention had not ended (that is, a reasonable person would not have felt free to leave) at the time of the request for consent or questioning; (2) the request or questions were not related to the basis for the stop; (3) the request or questions prolonged the detention beyond what was necessary to effectuate the purpose of the stop; and (4) the officer had not developed reasonable suspicion of additional criminal activity. *See, e.g., State v. Jackson*, 199 N.C. App. 236 (2009) (driver and passengers were detained when officers had not yet returned license and registration to driver; request for consent to search after reason for stop had ended unconstitutionally prolonged stop); *State v. Myles*, 188 N.C. App. 42 (2008) (nervousness of defendant and other passenger did not justify continued detention, questioning, and request for consent to search after officer considered traffic stop complete; search of

defendant's car was unlawful), *aff'd per curiam*, 362 N.C. 344 (2008); *State v. Sutton*, 167 N.C. App. 242 (2004) (questioning of defendant during stop was permissible; questions were brief and directly related to suspicion that gave rise to stop); *State v. Jacobs*, 162 N.C. App. 251 (2004) (after traffic stop for erratic driving, officer developed reasonable suspicion that other criminal activity may have been afoot; officer could continue to detain defendant and ask for consent to search for drugs, and officer need not have had specific reasonable suspicion for requesting consent).

There is an additional important qualification on the duration of a traffic stop. The lawfulness of a delay in completing a stop depends not only on the length of the delay but also on whether the officer diligently pursued investigation of the purpose of the stop. If an officer abandons pursuit of the justification for the traffic stop and embarks on a sustained course of investigation into unrelated matters, the delay violates the Fourth Amendment and renders inadmissible evidence discovered during the unlawful detention. *Rodriguez v. United States*, 575 U.S. 348, 349 (2015) (“Authority for the seizure ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.”).

Consent after detention has ended. If the detention has ended and the person is free to leave, an officer generally may request consent to search. *See State v. Heien*, 226 N.C. App. 280 (2013) (over a dissent, majority concluded that after return of documentation by police during traffic stop, defendant was aware that purpose of initial stop had been concluded and that further conversation, including request for and consent to search, was consensual), *overruled on other grounds*, 366 N.C. 271 (2012), *aff'd*, 574 U.S. 54 (2014); *State v. Morocco*, 99 N.C. App. 421 (1990) (trooper did not detain defendant in patrol car longer than necessary to write citation, and after detention ended defendant consented to search); *see also State v. Kincaid*, 147 N.C. App. 94 (2001) (questioning unrelated to traffic stop was permissible where defendant consented to being questioned after detention had ended).

The U.S. Supreme Court has rejected the notion that before requesting consent to search, officers are required to inform a motorist when a traffic stop ends or when the motorist is free to go. In *Ohio v. Robinette*, 519 U.S. 33 (1996), the Court held that the voluntariness of a motorist's consent is evaluated under the totality of circumstances. Whether the defendant was informed that he or she was free to leave is still a factor in the analysis. *Florida v. Royer*, 460 U.S. 491, 501–02 (1983). *Robinette* does not affect the law on the permissible duration of a stop. If an officer detains a person longer than necessary to effectuate the purpose of the stop, a request for consent to search may exceed the scope of the stop and violate the Fourth Amendment. *See, e.g., Rodriguez v. United States*, 575 U.S. 348 (2015). Any consent given must also be voluntary. *See infra* § 15.5D, Consent.

The return of paperwork to a driver may signal the end of a traffic stop, but it is not necessarily dispositive. *See Welty*, [Traffic Stops](#), at 10 (so stating and reviewing North Carolina decisions and other authorities).

F. Drug Dogs

When a drug dog sniff is a search. Walking a drug dog around a vehicle during a lawful traffic stop (discussed further below) is generally not considered a search. *See Illinois v. Caballes*, 543 U.S. 405 (2005); *State v. Branch*, 177 N.C. App. 104 (2006) (following *Caballes*); *United States v. Place*, 462 U.S. 696 (1983) (use of a drug dog to sniff luggage in public place was not a search under Fourth Amendment). *But cf. Florida v. Jardines*, 569 U.S. 1 (2013) (entering homeowner’s property and using drug-sniffing dog on homeowner’s porch to investigate contents of home is a “search” within the meaning of the Fourth Amendment). These and other cases suggest that a drug dog sniff of a person would generally be subject to Fourth Amendment limitations. *See* Shea Denning, [Dog Sniffs of People and the Fourth Amendment](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Oct. 9, 2012); 1 LAFAVE, SEARCH AND SEIZURE § 2.2(g), at 727–29 (discussing issue).

Effect of alert. An “alert” by a drug dog to a vehicle constitutes probable cause to search the vehicle if a sufficient showing is made as to the dog’s reliability to detect the presence of particular contraband. *See Florida v. Harris*, 568 U.S. 237 (2013) (holding that dog sniff provided probable cause to search vehicle and refusing to set inflexible evidentiary requirements regarding a dog’s reliability; also indicating that certification of dog by bona fide organization creates presumption of reliability, which defendant may rebut by other evidence); *see also* Jeff Welty, [Supreme Court: Alert by a Trained or Certified Drug Dog Normally Provides Probable Cause](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Feb. 20, 2013).

A drug dog’s positive alert to a vehicle does not give officers probable cause to search recent occupants of the vehicle. *State v. Smith*, 222 N.C. App. 253 (2012). For a discussion of related issues, see *infra* “Drug cases” in § 15.6E, Probable Cause to Search Vehicle.

Drug dog sniff during traffic stop. Although a drug dog sniff of the exterior of a vehicle is generally not considered a search, use of a drug dog is impermissible if it prolongs the stop and the officer does not have reasonable suspicion to justify the delay or consent. Under the principles established in *Rodriguez v. United States*, 575 U.S. 348 (2015), even a de minimis extension of stop for a drug dog sniff is impermissible without reasonable suspicion or consent. *See* E., Nature, Length, and Purpose of Detention, above. Older cases permitting a brief or de minimis delay were overruled by *Rodriguez* and are no longer good law. *See, e.g., State v. Brimmer*, 187 N.C. App. 451 (2007) (ninety-second delay for dog sniff was de minimis extension of traffic stop and did not require additional reasonable suspicion).

A drug dog sniff is also impermissible if it intrudes into protected areas—for example, the sniff is of the interior of an occupant. If conducted at a license checkpoint, a drug dog sniff may indicate that the purpose of the checkpoint is general criminal investigation and thus impermissible. *See supra* “Drug and general crime control checkpoints” in § 15.3I, Motor Vehicle Checkpoints.

G. Does *Miranda* Apply?

A person generally is not entitled to *Miranda* warnings during an investigatory stop. *See Berkemer v. McCarty*, 468 U.S. 420 (1984); *State v. Braswell*, 222 N.C. App. 176 (2012) (traffic stops are typically non-coercive in nature and do not amount to custodial interrogations). Once taken into custody or formally arrested, a person is entitled to *Miranda* warnings before police questioning. *See Pennsylvania v. Muniz*, 496 U.S. 582 (1990) (in case involving allegedly impaired driver who had been taken into custody, *Miranda* warnings were required for police question calling for testimonial response).

Some stops may amount to custody for *Miranda* purposes even though the person may not be under arrest. *See* Mark A. Godsey, *When Terry Met Miranda: Two Constitutional Doctrines Collide*, 63 *FORDHAM L. REV.* 715 (1994); *see also State v. Buchanan*, 353 N.C. 332 (2001) (test for custody is whether there was formal arrest or restraint on freedom of movement of degree associated with formal arrest); *State v. Washington*, 330 N.C. 188 (1991) (on facts presented, defendant was in custody for *Miranda* purposes when officer placed him in back seat of patrol car), *rev'g* 102 N.C. App. 535 (1991); *State v. Hemphill*, 219 N.C. App. 50, 58 (2012) (holding that “a reasonable person in Defendant’s position, having been forced to the ground by an officer with a taser drawn and in the process of being handcuffed, would have felt his freedom of movement had been restrained to a degree associated with formal arrest”).

H. Field Sobriety Tests

North Carolina cases have assumed (although have not specifically decided) that during a stop based on reasonable suspicion of impaired driving, field sobriety tests and questioning related to possible impairment are within the scope of the stop. *See generally Blasi v. State*, 893 A.2d 1152 (Md. Ct. Spec. App. 2006) (finding field sobriety tests permissible on traffic stop if officer has reasonable suspicion that driver is under the influence of alcohol).

Conversely, if officers do not have reasonable suspicion of impaired driving, field sobriety tests are not within the permissible scope of the stop. *See* Jeff Welty, [Field Sobriety Tests During Traffic Stops](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Apr. 14, 2009) (reviewing cases from other jurisdictions).

A person is not required to submit to field sobriety testing in North Carolina. A person’s refusal, however, may contribute to probable cause to arrest for impaired driving when other factors are present and is admissible at trial.

Once the defendant is considered to be in custody, *Miranda* warnings are required for questions calling for a testimonial response. *See supra* § 15.4G, Does *Miranda* Apply? Field sobriety tests may not require a testimonial response. *See State v. Flannery*, 31 N.C. App. 617, 623–24 (1976) (“the physical dexterity tests are not evidence of a testimonial or communicative nature . . . and are not within the scope of the *Miranda* decision”; court therefore holds that admitting evidence of defendant’s refusal to do tests did not violate

his Fifth Amendment right against self-incrimination; court also notes that *Miranda* warnings are not required for similar reasons before a breath test); *see also State v. White*, 84 N.C. App. 111, 115–16 (1987) (*Miranda* warnings not required before administering a breath test because results not testimonial). On the other hand, where law enforcement questions an in-custody defendant regarding potential evidence in the case (e.g., the last time the person drank, type of alcohol consumed, number of drinks, etc.), *Miranda* warnings are required.

I. Defendant's Name

In *Hiibel v. Sixth Judicial District Court of Nevada*, 542 U.S. 177 (2004), the U.S. Supreme Court upheld a defendant's conviction under a state statute requiring an individual stopped by police on the basis of reasonable suspicion to identify himself or herself. The Court stated, "Although it is well established that an officer may ask a suspect to identify himself in the course of a *Terry* stop, it has been an open question whether the suspect can be arrested and prosecuted for refusal to answer." *Id.* at 186–87. The Court held in this case that the stop was justified and the request for the defendant's name was reasonably related in scope to the circumstances that justified the stop (a suspected assault); therefore, enforcement of the state law requirement that the defendant give his name during the stop did not violate the Fourth Amendment. The Court also found no violation of the defendant's Fifth Amendment privilege against self-incrimination because in this case the defendant's refusal to disclose his name was not based on any articulated real and appreciable fear that his name would be used to incriminate him or would furnish a link in the chain of evidence needed to prosecute him.

North Carolina does not have a statute comparable to Nevada's statute requiring a person who is the subject of an investigative stop, other than a person driving a vehicle, to disclose his or her name. *See* G.S. 20-29 (person operating motor vehicle may be required to give his or her name). "Officers who lawfully stop someone for investigation may ask the person a moderate number of questions to determine his identity . . ." *State v. Steen*, 352 N.C. 227, 239 (2000) (citing *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984)). However, a person's mere refusal to disclose his or her name (when the person is not driving a vehicle) would appear insufficient to support a charge of violating G.S. 14-223 (resisting, delaying, or obstructing officer). *See also In re D.B.*, 214 N.C. App. 489 (2011) (officers may not search person during investigative stop to determine his or her identity); Jeff Welty, [Shooting An Officer the Bird](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Aug. 12, 2019) (discussing the issue in part).

J. VIN Checks

Officers may make a limited warrantless search of a vehicle when they need to determine its ownership. *See New York v. Class*, 475 U.S. 106 (1986) (no reasonable expectation of privacy in vehicle identification number); *State v. Green*, 103 N.C. App. 38 (1991) (check invalid on facts of case).