

Circuit Court for Queen Anne's County  
Case No. C-17-CR-23-000220

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 972

September Term, 2023

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DEROD LEE REED

v.

STATE OF MARYLAND

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Graeff,  
Albright,  
Woodward, Patrick L.,  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Albright, J.

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Filed: April 16, 2026

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Following a jury trial in the Circuit Court for Queen Anne’s County, Derod Lee Reed, Appellant, was convicted of possession of crack cocaine and a traffic citation for speeding. He raises one issue on appeal:<sup>1</sup>

Did the motions court err in denying Mr. Reed’s motion to suppress the evidence obtained during a search of his vehicle that was initiated based solely on the odor of a personal use amount of cannabis emitting from his vehicle?

For the reasons to follow, we shall affirm.

### **BACKGROUND**

On March 28, 2023, Trooper First Class (“TFC”) Jason Mulhearn stopped Mr. Reed for driving above the posted speed limit on Route 301 in Queen Anne’s County. Mr. Reed was the only person in the car. During the stop, TFC Mulhearn detected the odor of cannabis emanating from the vehicle and saw a burnt cannabis cigarette in the center console.

After obtaining Mr. Reed’s driver’s license and returning to his patrol car to request a backup unit for a probable cause search, TFC Mulhearn reapproached Mr. Reed’s vehicle. Then, TFC Mulhearn observed a clear plastic bag containing suspected cannabis in Mr. Reed’s lap. Mr. Reed admitted that he had cannabis and, when told to place it on the dashboard, also stated that he had paraphernalia in the vehicle.

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<sup>1</sup> This appeal was one of several cases stayed by Order of this Court on October 1, 2025, pending the Supreme Court of Maryland’s ruling in *Cutchember v. State*, \_\_\_ Md. \_\_\_ Nos. 39 & 40, Sept. Term, 2025 (filed March 3, 2026), 2026 WL 591287. The stay was lifted after the Supreme Court issued its opinion on March 3, 2026.

TFC Mulhearn then searched the vehicle. Inside a bag on the front passenger seat, he discovered crack cocaine alongside yellow plastic containers commonly used to conceal controlled dangerous substances. In Mr. Reed’s pocket, TFC Mulhearn discovered more crack cocaine. Laboratory analysis confirmed that the seized substances contained cocaine.

After Mr. Reed requested a jury trial, the case was transferred to the Circuit Court for Queen Anne’s County. Before trial, Mr. Reed moved to suppress the evidence, arguing that the search was unlawful because § 1-211 of the Criminal Procedure Article (“CP”), which took effect on July 1, 2023, prohibited the warrantless search of his vehicle based solely on the odor of cannabis and should be applied retroactively to his March 28 stop. The circuit court denied the motion, finding the search “completely proper” under the law in effect at the time it was conducted. A jury convicted Mr. Reed of both charges on the same day.

### **DISCUSSION**

Mr. Reed contends that the circuit court should have applied CP § 1-211 to suppress the evidence because (1) the statute is remedial and procedural, (2) his suppression hearing occurred two days after the statute’s effective date, and (3) the court was required to apply the law in effect at the time of the hearing rather than the law at the time of the search. Since Mr. Reed filed his brief, the Supreme Court of Maryland decided *Cutchember v. State*, \_\_ Md. \_\_ Nos. 39 & 40, Sept. Term, 2025 (filed March 3, 2026), 2026 WL 591287, which resolves this issue.

In *Cutchember*, the Supreme Court held that CP § 1-211(c)'s exclusionary remedy applies only to evidence discovered or obtained in violation of the statute's substantive prohibitions in subsections (a) and (b). *Id.* at \*7. Because those prohibitions did not take effect until July 1, 2023, no violation occurred during searches conducted before that date. *Id.* The Supreme Court determined that the statute contained a “right” prong and a “remedy” prong: subsection (a) creates a substantive right to be free from searches based on the odor of cannabis alone, and subsection (c) provides an exclusionary remedy triggered only by a violation of that right. *Id.* The Court concluded, “[b]ecause a violation of subsection (a) was legally impossible before July 1, 2023, the exclusionary remedy in subsection (c) is unavailable to these Petitioners.” *Id.*

The Court in *Cutchember* rejected the same arguments that Mr. Reed advances here. The Court held that CP § 1-211(a) is not merely procedural. Instead, CP § 1-211(a) created a new substantive right, as “Marylanders did not have a specific right to be free from cannabis-odor searches” before the statute’s effective date. *Id.* at \*8. The Court also rejected reliance on *Waker v. State*, 431 Md. 1 (2013), explaining that, “[i]n *Waker*, the sentencing court was required to look at the law ‘today’ to determine a penalty, but here, a suppression court looks at the law ‘yesterday’ to determine if an officer’s conduct was lawful when the search was conducted.” *Id.*

Here, *Cutchember* controls. Mr. Reed’s vehicle was searched on March 28, 2023, more than three months before CP § 1-211 took effect. At the time of the search, the odor of cannabis emanating from a vehicle provided probable cause to search under *Robinson*, 451 Md. 94, 137 (2017). Because there was no right to be free from cannabis odor-based

searches in March 2023, TFC Mulhearn did not violate CP § 1-211 when he searched Mr. Reed’s vehicle. *Cutchember*, 2026 WL 591287 at \*7. That Mr. Reed’s suppression hearing was two days after the statute’s effective date does not alter the analysis. Indeed, “the ‘date of the search is the key event in determining whether the right created by the statute in fact existed and thus whether a violation of that right had occurred.’” *Id.* (quoting *Cutchember v. State*, 265 Md. App. 690, 701 (2025)).

The circuit court did not err in denying the motion to suppress.

**JUDGMENTS OF THE CIRCUIT  
COURT FOR QUEEN ANNE’S  
COUNTY AFFIRMED. COSTS TO BE  
PAID BY APPELLANT.**