Circuit Court for Caroline County
Case No. C-05-CR-19-00153

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1600

September Term, 2019

WILLIAM CALVIN HARPER, JR.

v.

STATE OF MARYLAND

Graeff,
Berger,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 7, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a not guilty plea upon an agreed statement of facts in the Circuit Court for Caroline County, William Calvin Harper, Jr. appellant, was convicted of possession of methamphetamine. Mr. Harper's sole contention on appeal is that the court erred in denying his motion to suppress evidence that was found during a search of his vehicle. For the reasons that follow, we shall affirm.

BACKGROUND

At the suppression hearing, Trooper First Class John Griffin testified that he stopped Mr. Harper because the vehicle he was driving had an inoperative brake light and because he had observed Mr. Harper cross the center line on three separate occasions. When Trooper Griffin approached the driver's side door, he smelled the odor of raw marijuana emanating from the vehicle. Trooper Griffin questioned Mr. Harper about the smell and Mr. Harper eventually admitted that there was marijuana in the vehicle. At that point, Trooper Griffin decided to conduct a "probable cause" search of the vehicle.

Prior to searching the vehicle, Trooper Griffin first searched Mr. Harper's person and found a "smoking device" containing marijuana residue. He then searched the vehicle and found (1) a grinder containing marijuana residue; (2) a plastic container containing marijuana and partially smoked marijuana cigarettes, weighing 3.7 grams; (3) a plastic container that contained a rock-like substance that Trooper Griffin believed to be methamphetamine;[1] (4) five suboxone films; and (5) a plastic baggie containing .237 grams of methamphetamine. The suboxone films and plastic baggie containing the

[1] The substance in the plastic container was tested following Mr. Harper's arrest and determined not to be a controlled substance.

methamphetamine were found in a wallet, which was located inside the vehicle. Trooper Griffin did not testify about the specific order that he had recovered the items in the vehicle.

In closing, defense counsel argued that (1) Trooper Griffin had lacked probable cause to search Mr. Harper's person, and (2) Trooper Griffin had lacked probable cause to search the wallet because he did not have any reason to believe that it would contain evidence of a crime, specifically that it could have contained more than 10 grams of marijuana. The court granted the motion to suppress as to the smoking device recovered from Mr. Harper's person but denied it as to the items recovered from the vehicle, including those recovered from the wallet. Specifically, the court found that Trooper Griffin had probable cause to search the automobile and its contents based on his smelling marijuana inside the vehicle and Mr. Harper's subsequent admission that the vehicle contained marijuana. It therefore found that the search was justified under the automobile exception to the warrant requirement. The court further noted that, although the timeline of events could have been "cleaner," Trooper Griffin also had probable cause to continue searching the vehicle for other evidence of drug possession after he found the plastic container which he suspected contained trace amounts methamphetamine.

DISCUSSION

When reviewing a ruling on a motion to suppress evidence, we defer to the suppression court's findings of fact unless they are clearly erroneous. *Carter v. State*, 236 Md. App. 456, 467 (2018). We "only consider the facts presented at the motions hearing," *id.*, and "view the evidence and all reasonable inferences" from it "in the light most favorable to the prevailing party," *Sizer v. State*, 456 Md. 350, 362 (2017) (citation

omitted). We review the suppression court's legal conclusions de novo, and "mak[e] our own independent constitutional evaluation as to whether the officer's encounter with the defendant was lawful." *Id*.

On appeal, Mr. Harper contends that the warrantless search of his wallet was not justified under any recognized exception to the warrant requirement. We disagree. Under the "automobile exception" set forth in *Carroll v. United States*, 267 U.S. 132, 153 (1925), warrantless searches of lawfully stopped vehicles are permitted when there is probable cause to believe that the vehicle contains contraband or evidence of a crime. Moreover, "[i[f probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of *every part of the vehicle and its contents* that may conceal the object of the search." *United States v. Ross*, 456 U.S. 798, 825 (1982) (emphasis added).

Mr. Harper acknowledges that the search of his vehicle was justified under *Robinson v. State*, 451 Md. 94 (2017), wherein the Court of Appeals held that, despite the recent decriminalization of marijuana, the odor of marijuana emanating from a vehicle provides probable cause for law enforcement officers to conduct a warrantless search of the vehicle. *Id* at 99. He nevertheless asserts that the only crime the police had probable cause to believe he was committing based on smelling the odor of marijuana was possession of more than 10 grams of marijuana. He therefore claims that the police should only have been able to search items inside the car that could have contained that amount of marijuana. Because he contends that the State failed to prove that the wallet could have "even held a joint" he asks us to hold that the search of the wallet was unreasonable.

Even if we assume that Mr. Harper could not have secreted 10 grams of marijuana in his wallet, his claim still lacks merit. In *Robinson*, the Court of Appeals recognized that probable cause to search a vehicle exists not only when the police have reason to believe that there is evidence of a crime inside, but also when they have reason to believe that contraband is present. *Id*. at 112. Thus, "a law enforcement officer can search a vehicle based on probable cause to believe that the vehicle's contents are contraband, even if the law enforcement officer cannot arrest the driver." *Id*. at 128. Because "marijuana in any amount remains contraband, notwithstanding the decriminalization of possession of less than ten grams of marijuana," Trooper Griffin was justified in searching anything in the vehicle that could have contained marijuana, not just anything that could have contained more than 10 grams of marijuana. As a wallet could certainly have contained at least some amount of marijuana, we hold that the search of the wallet was

justified under the "automobile exception" to the warrant requirement. Consequently, the court did not err in denying, Mr. Harper's motion to suppress.[2]

JUDGMENT OF THE CIRCUIT COURT FOR CAROLINE COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[2] The State alternatively contends that, after the police found the plastic container containing suspected methamphetamine, they would have had probable cause to search any other items in the vehicle that could have contained methamphetamine, including the wallet. Although the State acknowledges that there was no evidence at the suppression hearing indicating whether the container was found before or after the wallet was searched, it claims that the search of the wallet would still be justified under the doctrine of inevitable discovery. Because we hold that Trooper Griffin had probable cause to believe that the wallet might contain marijuana, which would have been contraband regardless of whether Mr. Harper possessed a criminal amount, we do not address this alternative argument on appeal.