

Circuit Court for Montgomery County
Case No.: C-15-CR-23-000564

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1931

September Term, 2023

MARQUISE D. MOORE

v.

STATE OF MARYLAND

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

JJ.

Opinion by Woodward, J.

Filed: June 24, 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 Maryland Rule 1-104(a)(2)(B).

On April 20, 2023, Trooper Anthony Lynn was on patrol in Silver Spring when he conducted a traffic stop of a vehicle driven by Marquise Moore, appellant. Upon detecting an odor of cannabis¹ coming from appellant’s vehicle, Trooper Lynn searched the vehicle and recovered a loaded firearm with no serial number. Appellant was arrested and charged with possession of a firearm as a prohibited person and possession of a firearm without a serial number. Effective July 1, 2023, the Maryland General Assembly enacted a new section of the Criminal Procedure Article, Section 1-211, which provides, among other things, that (1) a law enforcement officer may not search a motor vehicle based solely on “the odor of burnt or unburnt cannabis,” and (2) evidence discovered or obtained “in violation” of this section is not admissible in a trial, a hearing, or any other proceeding. Md. Code Ann., Crim. Pro. (“CP”) § 1-211(a) & (c).

On October 27, 2023, the Circuit Court for Montgomery County held a hearing on appellant’s motion to suppress the firearm seized by Trooper Lynn on April 20, 2023, and denied the motion. On November 6, 2023, appellant entered a conditional plea of guilty to both counts of possession, and was sentenced to 15 years’ incarceration for possession of a firearm as a prohibited person, with all but 5 years suspended (without the possibility of parole), and a concurrent 2-year sentence for the possession of a firearm without a serial number.

¹ As of June 2022, Maryland statutes have replaced the term “marijuana” with “cannabis.”

Upon appeal, appellant presents one question for our review:²

Does Md. Crim. Proc. Art §1-211, which prohibits vehicle searches based solely on the odor or possession of cannabis, govern this appeal, as this provision was in effect at the time the matter was tried and continues to be in effect while this matter is pending on direct review and pursuant to this provision, does the odor of cannabis not give police probable cause to search a vehicle and must any fruit of such an illegal warrantless search be suppressed?

During the briefing period in the instant appeal, this Court answered appellant’s question in the negative in *Kelly v. State*, 262 Md. App. 295 (2024). In *Kelly*, we held that CP § 1-211 was “intended to apply prospectively from its effective date of July 1, 2023.” *Id.* at 311. However, in *Kelly*, the search, suppression hearing, conviction, and sentencing all occurred before the statute’s effective date of July 1, 2023. Therefore, this Court asked the parties to submit supplemental briefing on the following question:

In a case where the search occurred prior to July 1, 2023, but the trial or hearing at which the evidence was sought to be admitted or excluded occurred after July 1, 2023, which event should the Court view as establishing the operative date in determining whether CP § 1-211 applies?

For the reasons set forth herein, this Court holds that the operative date for determining the applicability of CP § 1-211 is the date of the search.

BACKGROUND

On April 20, 2023, Trooper Lynn stopped a vehicle driven by appellant for failing to wear a seatbelt. Trooper Lynn approached the vehicle and recognized the odor of

² 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*, 493 Md. 187 (2026). The stay was lifted after the Supreme Court issued its opinion on March 3, 2026.

cannabis coming from appellant’s vehicle. During the traffic stop, Trooper Lynn witnessed appellant “reaching toward the floor of the seat and saw him messing with a black satchel that was between his feet.” Based only on the odor of cannabis, Trooper Lynn searched the vehicle and recovered a loaded firearm without a serial number in the black satchel. Appellant was arrested and charged with possession of a firearm as a prohibited person and possession of a firearm without a serial number.

The motion to suppress hearing took place on October 27, 2023. At the hearing, appellant argued that the evidence should be suppressed based on the newly enacted CP § 1-211. Section 1-211 states, in relevant part:

Initiation of a stop or search

- (a) A law enforcement officer may not initiate a stop or a search of a person, a motor vehicle, or a vessel based solely on one or more of the following:
 - (1) the odor of burnt or unburnt cannabis;
 - (2) the possession or suspicion of possession of cannabis that does not exceed the personal use amount, as defined under § 5-601 of the Criminal Law Article; or
 - (3) the presence of cash or currency in proximity to cannabis without other indicia of an intent to distribute.

* * *

Admissibility of evidence

- (c) Evidence discovered or obtained in violation of this section, including evidence discovered or obtained with consent, is not admissible in a trial, a hearing, or any other proceeding.

The statute took effect on July 1, 2023, after the search of appellant’s vehicle on April 20, 2023, but before the suppression hearing on October 27, 2023. Appellant argued to the trial court that the firearm was not admissible under CP § 1-211. The court disagreed

and denied the motion. The court determined that at the time of the search, April 20, 2023, the odor of cannabis gave the officer probable cause to search the vehicle. Appellant proceeded to trial by entering a conditional plea of guilty to both counts of possession. Appellant was found guilty of both possession of a firearm as a prohibited person and possession of a firearm without a serial number. This timely appeal followed.

DISCUSSION

On March 3, 2026, the Supreme Court of Maryland decided *Cutchember v. State*, 493 Md. 187 (2026), which resolves this appeal. In *Cutchember*, on January 6, 2023, police conducted a traffic stop of Cutchember’s vehicle and detected an odor of cannabis emitting from the vehicle. *Id.* at 195. Based only on the odor of cannabis, the police searched the vehicle and found cannabis, along with other suspected drugs and drug paraphernalia. *Id.* Appellant was arrested and charged with possession. *Id.* Cutchember filed a motion to suppress the illegal drugs and drug paraphernalia seized during the search, and the hearing took place on August 23, 2023. *Id.* at 196. At the hearing, appellant argued that the evidence should be suppressed based on the newly enacted CP § 1-211. *Id.* The trial court denied the motion, reasoning that CP § 1-211 was not retroactive and at the time of the stop, January 6, 2023, the odor of cannabis gave the deputy probable cause to search appellant’s vehicle. *Id.* at 694. Cutchember appealed.

The Supreme Court of Maryland determined that subsection (a) of CP § 1-211 created a substantive right to be free from searches based solely on the odor of cannabis and subsection (c) provided a remedy for the violation of that right. *Id.* at 193. The Court

unanimously held: “Criminal Procedure § 1-211(c) makes clear that only ‘[e]vidence discovered or obtained in violation of this section’ is inadmissible. Because a violation of subsection (a) was legally impossible before July 1, 2023, the exclusionary remedy in subsection (c) is unavailable to these Petitioners.” *Id.* at 204. The Court rejected the argument that CP § 1-211(a) was merely procedural and did not create a new substantive right. *Id.* at 205. The Court determined that CP § 1-211(a) created a new substantive right because “[p]rior to the statute’s effective date, Marylanders did not have a specific right to be free from cannabis-odor searches[.]” *Id.* The Court also rejected Cutchember’s reliance on *Waker v. State*, 431 Md. 1 (2013), stating that “[b]ecause the ‘event’ regulated by CP § 1-211 is the police encounter itself, the legality of that encounter is fixed at the moment it occurs.” *Id.* Therefore, an exclusionary remedy cannot apply to searches conducted before the right existed regardless of the date of the hearing. *Id.*

In the instant case, the search of appellant’s vehicle took place on April 20, 2023, over two months before the statute took effect. At the time of the search, police had probable cause to search appellant’s vehicle based solely on the odor of cannabis under *Robinson v. State*, 451 Md. 94, 137 (2017), *superseded by statute*. Because Trooper Lynn could not have violated CP § 1-211(a) before July 1, 2023, the exclusionary remedy cannot apply to the search of appellant’s vehicle. It is the date of the search, April 20, 2023, and not the date of the hearing that “‘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.’”

Cutchember, 493 Md. at 199. (quoting *Cutchember v. State*, 265 Md. App. 690, 701 (2025)). Accordingly, the trial court correctly denied appellant’s motion to suppress.

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