

**IN THE COURT OF COMMON PLEAS LEBANON COUNTY
PENNSYLVANIA**

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA : **NO. CP-38-CR-1055-2024**
:

v.

SHARIEL VASQUEZ :

COMMONWEALTH OF PENNSYLVANIA : **NO. CP-38-CR-1057-2024**
:

v.

XABDIEL PADILLA-SANTIAGO :

ORDER OF COURT

AND NOW, this 27th day of March, 2025, in accordance with the attached Opinion, the Omnibus Pre-Trial Motions of the Defendants are DENIED.

The Defendants are directed to appear at the Criminal Call of the List scheduled for April 1, 2025, at 8:30am in the designated Courtroom. They are also directed to appear for the first day of Criminal Trials scheduled to commence on April 21, 2025, in the designated Courtroom. Trial is to be conducted before this jurist.

BY THE COURT:


_____ J.
BRADFORD H. CHARLES

BHC/ram

Cc: Court Administration
District Attorney's Office
Public Defender's Office
Joshua Harshberger, Esq. // 8150 Derry St., Harrisburg, PA 17111

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XABDIEL PADILLA-SANTIAGO :

APPEARANCES

Kevin Dugan, Esquire : **For Plaintiff**
DISTRICT ATTORNEY'S OFFICE

Joshua Harshberger, Esquire : **For Defendant Vasquez**

Michael J. Light II, Esquire : **For Defendant Padilla-**
PUBLIC DEFENDER'S OFFICE : **Santiago**

OPINION BY CHARLES, J., March 27, 2025

Before us are pre-trial Motions to Suppress evidence found inside a motor vehicle during a search at an impound lot after the vehicle was seized by law enforcement. Defendant argues that mere detection of the odor of marijuana does not justify further inquiry by a police officer. We reject the premise – that actions by law enforcement were based solely upon the odor of marijuana – and the conclusion – that police should not have impounded

the vehicle possessed by Defendants – of the Defendants’ arguments. We write this Opinion in support of our decision to deny the Defendants’ motion.

I. FACTUAL AND PROCEDURAL BACKGROUND

This case stems from incidents that occurred at Walmart in North Londonderry Township on August 25, 2023 and August 26, 2023. On August 25, 2023, loss prevention officer Cody Spitler (hereafter “Spitler”) was alerted to individuals who had passed counterfeit Western Union money orders at the store. The next day, August 26, 2023, the individuals attempted to perform the same transaction. This time, however, the store declined the money orders. Spitler was able to utilize video surveillance from August 25, to identify Shariel Vasquez (hereafter “VASQUEZ”). Spitler testified that VASQUEZ retained the deceitful money order.

On August 26, Spitler followed VASQUEZ, Xabdiel Padilla-Santiago (hereafter “PADILLA-SANTIAGO”) and a juvenile from the store. Upon exiting, Spitler noticed a North Londonderry Township police vehicle patrolling the area. Spitler flagged down the officer, Corporal Skyler Snyder (hereafter “Cpl. Snyder”). While Spitler was telling Cpl. Snyder what had occurred, the individuals made their way to a vehicle.

As Cpl. Snyder was moving his vehicle, VASQUEZ and PADILLA-SANTIAGO (collectively “the Defendants”) moved their vehicle from one parking spot to another in what Cpl. Snyder perceived as an effort to evade detection by police. VASQUEZ exited the vehicle and walked away. Cpl.

Snyder eventually found the vehicle and engaged PADILLA-SANTIAGO and the juvenile. The two voluntarily exited the vehicle to speak with Cpl. Snyder.

Cpl. Snyder, having been on the job for nineteen (19) years, and encountering many individuals possessing both burnt and fresh marijuana, testified he had never detected any odor of marijuana stronger than he encountered when speaking with PADILLA-SANTIAGO and the juvenile. When asked about the possibility of marijuana in the vehicle, PADILLA-SANTIAGO refused to respond, and the juvenile denied there was any marijuana in the vehicle. No party displayed a medical marijuana card at any time during the incident or at the time of the pre-trial hearing.

VASQUEZ admitted to Cpl. Snyder that he drove the vehicle despite not possessing a driver's license. However, VASQUEZ did possess the key fob for the vehicle. Cpl. Snyder found that the vehicle was registered to VASQUEZ's girlfriend, Omaria. VASQUEZ admitted to being inside the store on that day. No money orders were found during interactions with the Defendants.

Cpl. Snyder sought consent to search the vehicle. None was given by either VASQUEZ or his girlfriend, whom Cpl. Snyder unsuccessfully tried to reach by phone. Receiving no consent to search, Cpl. Snyder had the vehicle impounded pending a search.

Since this incident occurred on a Saturday afternoon, Cpl. Snyder waited to obtain a search warrant until the next business day (Monday).

Cpl. Snyder secured the search warrant on Monday morning and searched the vehicle the same day. As a result of the search, contraband was found. VASQUEZ was charged with Forgery, Theft by Deception, Criminal Attempt/Theft by Deception, and multiple felony and misdemeanor counts for Violation of the Controlled Substance Drug, Device and Cosmetic Act (VCSDDCA). PADILLA-SANTIAGO was also charged with felony and misdemeanor counts of VCSDDCA.

The Defendants filed pre-trial motions in their respective cases. On January 15, 2025, we held a joint pre-trial hearing, and a briefing schedule was set. The Defendants raise two related issues:

- 1. Did the Cpl. Snyder have sufficient probable cause to seize the Defendant's vehicle in which contraband was eventually found?*
- 2. Did the search warrant obtained contain adequate probable cause to support a search of the vehicle possessed by the Defendants?*

II. DISCUSSION

Search and seizures by law enforcement is governed by the **Fourth Amendment of the U.S. Constitution** and **Article I, Section 8 of the Pennsylvania Constitution**. Each provides, as a general rule, that the people shall not be subject to unreasonable searches and seizures unless a warrant is issued based upon probable cause. The Pennsylvania Constitution provides even more protection than the Fourth Amendment. ***Commonwealth v. Alexander***, 243 A.3d 177, 181 (Pa. 2020).

In ***Commonwealth v. McMahon***, 280 A.3d 1069 (Pa. Super. 2022), the Appellant argued that exigent circumstances were required for law enforcement to lawfully seize burnt marijuana cigarettes from the center cup holder of his vehicle. The court, citing ***Commonwealth v. Heidelberg***, 267 A.3d 492 (Pa. Super. 2021), explained that “absent one of the “clearly [defined] exceptions, a warrantless search or seizure is presumptively unreasonable”. *Id.* at 502. The exceptions justifying a warrantless search or seizure include:

- The consent exception
- The plain view exception
- The inventory search exception
- The exigent circumstances exception
- The automobile exception
- The stop and frisk exception
- The search incident to arrest exception. *Id.*

The general rule in Pennsylvania is that police should acquire a search warrant prior to searching a vehicle. The automobile exception to warrantless searches and seizures provides that law enforcement may not search and seize property from within an automobile without probable cause and a qualifying exigency present, e.g., the inherent mobility of the vehicle plus a lack of sufficient time to obtain a warrant. ***Alexander***, 243 A.3d 177.

In ***Commonwealth v. Murphy***, 916 A.2d 679 (Pa. Super. 2007) the court discussed the question of whether probable cause exists for the issuance of a search warrant. ***Id.*** at 681. The court found the totality of the circumstances test appropriate to determine the matter. ***Id.*** at 682. Under the totality of the circumstances test, a court must “make a practical, common-sense assessment whether, given all the circumstances set forth in the affidavit, there is a fair probability that evidence of a crime will be found in a particular place”. ***Id.*** A search warrant is defective if the issuing authority is not given the necessary information to approve or deny the totality of the circumstances. ***Id.*** It must include a chronology that is practical but, more importantly, “common sense”. ***Id.***, quoting ***Commonwealth v. Baker***, 518 A.2d 802 (Pa. 1986). Hearsay may be sufficient to determine probable cause if the issuing authority has sufficient information to make a “neutral and detached” decision as to the probability of evidence to be found at the location of the warrant. ***Commonwealth v. Huntington***, 924 A.2d 1252, 1255 (Pa. Super. 2007), quoting ***Commonwealth v. Woosnam***, 819 A.2d 1198, 1208 (Pa. Super. 2003).

In this case, Cpl. Snyder testified that when he approached the Defendants’ vehicle, he detected marijuana stench stronger than he had ever detected in 19 years as a police officer. Moreover, neither of the Defendants who were connected to the vehicle possessed driver’s licenses. Despite these facts, the defense would argue that Cpl. Snyder should have permitted the Defendants to simply drive the vehicle away from Walmart.

Had he done so, Cpl. Snyder would have committed police malpractice. He would have been subjecting the public to the potential of harm created by an unlicensed driver who may have been under the influence of a controlled substance.¹

Given that Cpl. Snyder could not risk having the Defendants simply drive away from the scene, he had limited options. First, he could have undertaken a warrantless search in the parking lot of Walmart based upon exigent circumstances and legal principles permitting inventory searches. Second, he could have impounded the vehicle in order to obtain a search warrant predicated upon probable cause. Of these two options, the one that was more respectful of the Defendants' privacy rights was the latter. That was precisely the choice made by Cpl. Snyder.

As it relates to probable cause, the defense argues that the odor of marijuana can no longer afford police with probable cause given the advent of Pennsylvania's Medical Marijuana Law. *Au contraire!* No evidence was presented to Cpl. Snyder or to this Court that either of the Defendants possessed a medical marijuana card that would render possession of *some forms* of marijuana legal. Even if they had, Pennsylvania's Medical Marijuana Law specifically states: "It is unlawful to smoke medical marijuana." See, **Act of April 17, 2016, P.L. 84, No. 16, § 304(b)(1), 35 P.S. § 10231.304(b)(1)**. In addition, it is unlawful for anyone to operate a vehicle under the influence of marijuana, even if they possess a medical

¹ In addition, VASQUEZ's girlfriend, who owned the vehicle and presumably possessed a key, could have removed incriminating evidence if it was left in the Walmart parking lot.

marijuana card. See, e.g., *Commonwealth v. Dabney*, 274 A.3d 1283, 1288-90, citing **75 Pa.C.S.A. § 3802(d)(1)** and **35 P.S. § 780-104**. Given the extent of the marijuana stench described by Cpl. Snyder, he clearly could have perceived that the Defendants' attempt to operate the marijuana-infused car constituted a criminal endeavor.

Once again, a totality of circumstances analysis is required to assess whether Cpl. Snyder possessed probable cause to impound the vehicle. Without being exhaustive, the following represent some of the building blocks to create probable cause in this case:

- The observations of Walmart Risk Management Agent Spitler pertaining to fraud committed by the Defendants;
- The fact that neither of the Defendants possessed driver's licenses;
- The fact that the Defendants were in possession of a vehicle they did not own;
- The fact that the Defendants could not or would not contact the true owner of the vehicle when requested by police;
- The overwhelming stench of marijuana inside the vehicle;
- The fact that the Defendants moved from one parking space to another in an apparent effort to avoid police; and
- The fact that no one was present at the scene who could have legally driven the vehicle away from its location.

Even separately, some of the above factors would have supported Cpl. Snyder's decision to impound the vehicle. Viewed collectively, the events outlined above create overwhelming support for Cpl. Snyder's decision.

Based upon the totality of the circumstances facing Cpl. Snyder, he did the right thing. He erred on the side of caution by choosing to obtain a search warrant. Until the search warrant could be obtained the next business day, Cpl. Snyder impounded the vehicle and did not search it. It was not until a Magisterial District Judge rendered a determination of probable cause that Cpl. Snyder undertook a search. We cannot and will not impugn Cpl. Snyder's decisions on August 26, 2023.

Based upon everything outlined above, we reject the Defendants' position that Cpl. Snyder improperly searched the vehicle possessed by the Defendants. Given the facts as they evolved on August 26, 2023, it would have been grossly negligent for Cpl. Snyder to have simply left the Defendants and their vehicle to their own devices. In legal parlance, Cpl. Snyder possessed more than enough probable cause to impound and search the vehicle possessed by the Defendants. Therefore, the Defendants' Motion to Suppress all evidence discovered after the vehicle impound will be DENIED.