

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1855

September Term, 2021

MARC A. JEROME

v.

STATE OF MARYLAND

Wells, C.J.,
Tang,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 30, 2022

*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 Prince George’s County, Marc A. Jerome, appellant, was convicted of wearing, carrying, or transporting a loaded handgun in a vehicle. His sole contention on appeal is that the court erred in denying his motion to suppress. For the reasons that follow, we shall affirm.

At the suppression hearing, Officer Mohammad Ashkar testified that he decided to search a parked vehicle, in which appellant was a passenger, after smelling “a very strong smell of fresh marijuana” emanating from that vehicle. When appellant exited the car so that the officers could perform the search, Officer Ashkar noticed a bookbag in the seat where appellant had been sitting. A search of that bag uncovered marijuana, a loaded handgun, and identification belong to appellant.

As he did in the circuit court, appellant contends that the search of the vehicle based solely on the odor of marijuana was unlawful and, therefore, that the court erred in denying his motion to suppress. He concedes, however, that the Court of Appeals addressed this issue in *Robinson v. State*, 451 Md. 94, 99 (2017) and 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. In asking us to reverse the suppression court, appellant asserts that the rationale of *Robinson* “no longer applies” in light of the fact that the General Assembly legalized the possession of hemp in 2019. Specifically, he claims that the odor of marijuana is “no longer indicative of contraband *per se*” and because Officer Ashkar did not testify that he

could distinguish the difference between marijuana and hemp “based on smell alone,” he lacked probable cause to search the vehicle.

As an initial matter, we note that the Court of Appeals has recently indicated that it was “not prepared” to “disclaim” the key holding in *Robinson*, specifically that the odor of marijuana remains evidence of a crime. *In re D.D.*, 479 Md. 206, 235 (2022). Moreover, “[i]t is not up to this Court [] to overrule a decision of the Court of Appeals that is directly on point.” *Foster v. State*, 247 Md. App. 642, 651 (2020). Rather, the rulings of the Court of Appeals remain “the law of this State until and [u]nless those decisions are either explained away or overruled by the Court of Appeals itself.” *Scarborough v. Altstatt*, 228 Md. App. 560, 577 (2016) (internal quotation marks and citation omitted). Thus, we are bound to follow *Robinson*. Under *Robinson*, Officer Ashkar had probable cause to search appellant’s vehicle based on his testimony, which was credited by the suppression court, that he smelled the odor of marijuana inside the vehicle. Consequently, the court did not err in denying appellant’s motion to suppress.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO BE
PAID BY APPELLANT.**