

Circuit Court for Washington County
Case No. C-21-CR-19-000513

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2198

September Term, 2019

EDWARD MILES

v.

STATE OF MARYLAND

Graeff,
Ripken,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 12, 2021

*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 Washington County, Edward Miles, appellant, was convicted of illegal possession of a regulated firearm and possession of cocaine with intent to distribute. His sole contention on appeal is that the circuit court erred in denying his motion to suppress. For the reasons that follow, we shall affirm.

The parties stipulated that Mr. Miles was the front seat passenger in a vehicle that was stopped for speeding. During the stop, two Maryland State Troopers independently smelled the odor of marijuana inside the vehicle. Based on the odor of marijuana they conducted a “probable cause” search of the vehicle and its contents. During the search of a backpack that was found on the floorboard of the front passenger seat, the Troopers recovered a loaded firearm; a clear plastic baggie containing 76 empty plastic vials, and a Maryland identification card belonging to Mr. Miles. They also found “a green plastic vial with amounts of CDS crack cocaine” in the vehicle’s center console and “one large clear plastic tube containing seven clear plastic and glass vials with CDS crack cocaine” in the console on the driver’s door. Mr. Miles subsequently waived his Miranda rights and “claimed ownership of the gun [in the backpack] and the CDS in the driver door.” The court denied the motion to suppress finding that the Troopers had probable cause to search the vehicle and its contents based on their having smelled the odor of marijuana inside the vehicle.

On appeal, Mr. Miles contends that the “brief smell of marijuana did not justify the police officers search of the vehicle, and for that reason, the evidence recovered from the vehicle must be suppressed as the fruit of an unlawful search.” However, in *Robinson v.*

State, 451 Md. 94, 99 (2017), 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. And “[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). Moreover, “[a] passenger’s personal belongings, just like the driver’s belongings or containers attached to the car like a glove compartment, are ‘in’ the car” for the purposes of a search pursuant to the automobile exception. *Wyoming v. Houghton*, 526 U.S. 295, 302 (1999). Therefore, the search of the vehicle, and the search of the backpack located on the floorboard of the vehicle, was justified under the “automobile exception” to the warrant requirement.

In claiming otherwise, Mr. Miles relies on *Pacheco v. State*, 465 Md. 311 (2019). However, *Pacheco* is inapplicable as it addressed whether the odor of marijuana was sufficient to support the search and arrest of the driver of a vehicle. In fact, the Court of Appeals specifically noted that, under *Robinson*, “the eventual search of Mr. Pacheco’s vehicle was permissible by application of the automobile doctrine.” *Id.* at 330. Consequently, the court did not err in denying Mr. Miles’s motion to suppress.

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