IN THE COURT OF APPEALS OF IOWA

No. 16-1808
Filed November 22, 2017

STATE OF IOWA,
Plaintiff-Appellee,

vs.

WILLIAM EARL GRAY,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Nathan A. Callahan, District Associate Judge.

A defendant appeals his conviction asserting the district court should have granted his motion to suppress evidence. **AFFIRMED.**

Charles Isaacson of Charles Isaacson Law, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Kyle P. Hanson, Assistant Attorney General, for appellee.

Considered by Vaitheswaran, P.J., Doyle, J., and Scott, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2017).

SCOTT, Senior Judge.

William Gray appeals his conviction for possession of a controlled substance, second offense, in violation of Iowa Code section 124.401(5) (2015). He asserts on appeal the district court erred in denying his motion to suppress the evidence seized as a result of an inventory search of his vehicle. It is his contention the officers used the inventory search solely to investigate criminal activity after he refused to give consent to search.

A well-recognized exception to the warrant requirement is the vehicle inventory search. *See State v. Huisman*, 544 N.W.2d 433, 436 (Iowa 1996). "The legality of an inventory search depends on two overlapping inquiries: the validity of the impoundment and the scope of the inventory." *Id.* Gray only attacks the validity of the impoundment. In addressing the validity of the impoundment, "we no longer examine the reasonableness of the officer's decision to impound; we look for the existence of reasonable standardized procedures and a purpose other than the investigation of criminal activity." *Id*. at 437. "To decide whether the officers were motivated solely by an investigatory purpose, we examine whether, when viewed objectively, an administrative reason for the impoundment existed." *Id*. at 439. "We do not analyze the subjective motivations of the officers." *Id.* at 440.

In ruling on Gray's motion, the district court correctly noted:

> The court was presented with the written policy of the Black Hawk County Sheriff's Office regarding impoundment and inventory. All three versions of the policy presented to the court explicitly provide a vehicle involved in an arrest or other official police action will be towed if the arrested person was the sole occupant. The policy further indicates the deputy requesting the vehicle be towed for impoundment shall see the vehicle is inventoried. The policy

> provides no explicit requirement for officers to afford drivers an accommodation or allow drivers to contact another licensed driver to remove the vehicle from the scene. The Black Hawk County policy, on the other hand, provides any vehicle not towed due to "extenuating circumstances" needs to be approved by a supervisor.
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> Although the policy says nothing about non-arrest impoundments, Iowa Code section 321.20B allows a peace officer to "[i]ssue a citation, remove the motor vehicle's license plates and registration receipt, and impound the motor vehicle" if a driver of a motor vehicle registered in this state is unable to provide proof of financial liability coverage. *See* Iowa Code § 321.20B(4)(a)(4)(a). Gray has not challenged the constitutionality of this statute nor the sheriff department's compliance with the impoundment procedures under the statute. Gray also has not challenged the sheriff department's impoundment policy. When viewed objectively, as the law requires, the court finds the officers were allowed to impound Gray's vehicle.
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> The court in no way condones the officers' activity. The record clearly reflects the officers impounded and inventoried Gray's vehicle upon learning of Gray's prior drug conviction and unwillingness to consent to a search. Before Gray refused to consent to a search, the officers indicated they may allow someone to pick up the vehicle for Gray and not tow the vehicle. Once it became clear Gray would not consent to the search of his vehicle, apparently on the advice of counsel, the officers decided to impound the vehicle. It appears the officers used [the] impound and inventory process to simply bypass Gray's unwillingness to consent to the search. The court notes Iowa Code section 321.20B, regarding driving without liability coverage, permits a peace officer to issue a warning, issue a citation, issue a citation and remove the vehicle's license plates and registration, or issue a citation and impound the vehicle. Here, the officers issued a citation, impounded and searched the vehicle for inventory purposes to quell their suspicions Gray was "hiding something."
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> The established case law is clear that unless the inventory search is conducted for the sole purpose of investigation, which the court is unable to find it was, the officer's investigatory motive does not invalidate an inventory search. Accordingly, the inventory search was valid and the motion to suppress must be denied.

The district court correctly analyzed the issues in this case and thoroughly addressed Gray's claims that the officers' subjective motivation to search his vehicle for drugs should invalidate the inventory search. Upon our de novo review of the record, we agree with and approve the district court's reasons and

conclusions in its order denying the motion to suppress. *See Huisman*, 544 N.W.2d at 436 (noting our standard of review). We affirm the district court's decision without further opinion pursuant to Iowa Court Rule 21.26(1)(a), (c), and (d).

AFFIRMED.