

IN THE COURT OF APPEALS OF IOWA

No. 3-356 / 12-1080
Filed June 26, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

PAUL MCCOY,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, William A. Price,
District Associate Judge.

A defendant contends the district court erred in overruling his motion to
suppress evidence obtained during a search of his vehicle. **AFFIRMED.**

Davis L. Foster, Iowa City, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, John P. Sarcone, County Attorney, and Andrea Petrovich, Assistant
County Attorney, for appellee.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

VAITHESWARAN, J.

Paul McCoy contends the district court should not have overruled his motion to suppress evidence obtained during a search of his vehicle.

I. Background Facts and Proceedings

Ankeny Police Officer Mortvedt was working on a drug interdiction project in the Interstate 80 corridor when his attention was drawn to a Pontiac Grand Prix that did not have a functioning third brake light or a front license plate. Mortvedt activated his emergency lights and the driver slowed down and began to pull off the road. As he came to a stop, Mortvedt saw the driver move towards the center console.

Officer Mortvedt and another officer approached the vehicle and identified the driver as McCoy. Mortvedt asked McCoy to step out of the vehicle and sought his consent to check the console area of the car. McCoy said, "Go for it." Mortvedt found marijuana seeds and pieces of marijuana in the center console. Another officer proceeded to search the rest of McCoy's vehicle. He found a bag of psilocybin mushrooms inside a backpack in the back seat of McCoy's car.

The State charged McCoy with possession of a controlled substance, and McCoy responded with a motion to suppress the evidence. Following an evidentiary hearing, the district court denied the motion. McCoy then waived his right to a jury trial and stipulated to a trial on the minutes of testimony. The district court found him guilty and imposed sentence. This appeal followed.

II. Analysis

The United States and Iowa Constitutions protect individuals from unreasonable searches and seizures. U.S. Const. amends. IV, XIV; Iowa Const.

art. I § 8; *State v. Carter*, 696 N.W.2d 31, 36 (Iowa 2005). McCoy contends the search of his vehicle was unreasonable because (1) he did not consent to a search, (2) the officer “did not have a sufficient basis to search any portion of the vehicle for weapons,” and (3) “even if furtive movement alone could justify the initial search for weapons, that search exceeded any permissible scope.” The State counters with several arguments, including an assertion that the warrantless search was supported by probable cause and exigent circumstances. On our de novo review, we find this argument dispositive. See *Carter*, 696 N.W.2d at 36 (setting forth the standard of review).

Probable cause exists “when the facts and circumstances would lead a reasonably prudent person to believe that the vehicle contains contraband.” *Id.* at 37 (quotation marks and citation omitted). The facts and circumstances upon which a finding of probable cause is based include “the sum total . . . and the synthesis of what the police [officer has] heard, what [the officer] knows, and what [the officer] observe[s] as [a] trained officer[].” *Id.* (quotation marks and citation omitted).

As noted, McCoy made a furtive movement toward the center console as he stopped his car, a movement that was captured on a police recording of the incident. See *id.* at 37 (noting when officer signaled vehicle to stop, he saw the defendant “digging around the area of the center console”). Officer Mortvedt asked McCoy what he was reaching for. According to Mortvedt, McCoy did not “really provide . . . an explanation.” McCoy agreed to exit the car and submit to a weapons search of his person. Mortvedt did not find a weapon in McCoy’s possession but “felt that he may have hid[den] a weapon in the center console of

the vehicle during the traffic stop.” Because McCoy would be returning to the vehicle, Mortvedt decided “to make sure that there [were] no weapons in that area before” he “placed him back inside the vehicle.” Mortvedt did not find a gun or other weapon in the center console, but he did find marijuana residue. He asked McCoy “about the seeds.” McCoy “indicated he had been arrested for possession of marijuana” earlier that year and “the seeds would be left over from that arrest.”

These facts gave the officers probable cause to search the remainder of the vehicle for drugs, including containers within the vehicle. See *id.* at 38 (citing *California v. Acevedo*, 500 U.S. 565, 580 (1991)). As for the exigency requirement, that requirement was satisfied by the mobility of the vehicle. See *State v. Hoskins*, 711 N.W.2d 720, 729 (Iowa 2006).

We affirm the district court’s denial of McCoy’s motion to suppress and his judgment and sentence for possession of a controlled substance.

AFFIRMED.