

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0883**

State of Minnesota,
Respondent,

vs.

Tristin Tyler Jacox-Mann,
Appellant.

**Filed August 18, 2025
Reversed and remanded
Reilly, Judge***

Hennepin County District Court
File No. 27-CR-22-25145

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill,
Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Bond, Judge; and Reilly, Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

In this direct appeal from the judgment of conviction for first-degree sale of cocaine,
third-degree possession of cocaine, and third-degree possession of fentanyl, appellant

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

argues that his convictions must be reversed because law enforcement expanded the scope of an equipment-violation vehicle stop without probable cause. Because the odor of marijuana and Jacox-Mann's admission of the use of marijuana do not constitute sufficient probable cause to search a vehicle given the cannabis laws in effect at the time of the incident, we reverse and remand.

FACTS

Respondent State of Minnesota charged appellant Tristin Tyler Jacox-Mann with four felony counts: first-degree sale of cocaine, third-degree possession of cocaine, third-degree possession of fentanyl, and ineligible possession of a firearm. Jacox-Mann moved the district court to suppress the drug and gun evidence police found during a roadside search of his vehicle following a traffic stop, which occurred on December 14, 2022. The district court denied Jacox-Mann's motion. These facts come from the omnibus hearing regarding the motion to suppress.

An officer testified that on December 14, 2022, just before 5:00 p.m., the officer saw a Honda Pilot violate a number of traffic laws including (1) traveling with its headlights off despite the snowy and rainy inclement weather after sunset, and (2) turning left without signaling the turn. The officer made a U-turn, caught up to the Pilot, and initiated a traffic stop. The Pilot stopped on the on-ramp to a highway, half in the on-ramp lane and half over the white line designating the shoulder. After the officer stepped out of his squad car and as he began approaching the Pilot on foot, he smelled a "quite strong" odor of burnt and unburnt marijuana coming from the driver's open window. The driver, Jacox-Mann, identified himself with his identification card. He did not have a valid

driver's license and claimed he was participating in a driver's diversion program. The officer told Jacox-Mann that he pulled him over because he had no front plate, failed to signal a turn, and did not have on his headlights. The officer asked Jacox-Mann to step out of the vehicle and the two walked to the rear of the Pilot.

The officer asked Jacox-Mann, "I'm smelling a little marijuana in the car. Do you guys smoke at all?" Jacox-Mann replied, "Yeah I do smoke weed," but denied having any marijuana on his person. Jacox-Mann reached into his pockets and the officer replied, "Stop digging in your pockets. Kind of making me a little nervous." The officer then told Jacox-Mann that he planned to frisk him and Jacox-Mann replied, "Okay." The officer confiscated a marijuana vape from Jacox-Mann's pocket, which Jacox-Mann confirmed was a "weed vape." The officer told Jacox-Mann that officers would search the Pilot based on the marijuana. Jacox-Mann spontaneously stated, "But . . . weed's legal to smoke." The officer replied, "Not quite yet." Jacox-Mann seemed surprised and responded, "Oh, wow."

A search of the car yielded: (1) one bag containing 23.91 grams of cocaine from between the driver's seat and the center console; (2) one bag containing 2.24 grams of cocaine from between the driver's seat and the center console; (3) one bag containing 11.4 grams of fentanyl pills; (4) additional marijuana in the center console; (5) a marijuana blunt in the driver's door; and (6) a .45 caliber pistol in the glove box.

The district court determined the officer had lawfully stopped Jacox-Mann's vehicle because he had an objective basis to do so. And the district court determined that the officer's observations—including the "quite strong" odor of burnt and unburnt marijuana

and Jacox-Mann’s admission that he does “smoke weed”—established probable cause to search the vehicle. The district court denied Jacox-Mann’s suppression motion. The case proceeded to a jury trial. A Hennepin County jury found Jacox-Mann guilty on all three drug charges but not guilty of the ineligible-possession charge. The district court sentenced him to 81 months in prison. Jacox-Mann appeals.

DECISION

Jacox-Mann argues the district court erred in denying his motion to suppress because the officer did not have probable cause to search Jacox-Mann’s car. The United States and Minnesota Constitutions protect against “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. A warrantless seizure is reasonable when it is supported by probable cause. *State v. Glover*, 4 N.W.3d 124, 132 (Minn. 2024) (quotation omitted). Probable cause exists when “a person of ordinary care and prudence, viewing the totality of circumstances objectively, would entertain an honest and strong suspicion that a specific individual has committed a crime.” *Id.* (emphasis omitted) (quotation omitted). Probable cause requires “something more than mere suspicion but less than the evidence necessary for conviction.” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011). This inquiry is objective and turns on the cumulative facts of the individual case. *Id.*

When reviewing a pretrial order denying a motion to suppress evidence, we independently review the facts to “determine whether, as a matter of law, the district court erred in not suppressing the evidence.” *State v. Wilde*, 947 N.W.2d, 473, 476 (Minn. App. 2020), *rev. denied* (Minn. Oct. 1, 2020). In doing so, we review the district court’s factual

findings for clear error and its legal determinations de novo. *State v. Ortega*, 770 N.W.2d 145, 149 (Minn. 2009).

For an officer to search a vehicle without a warrant, circumstances must show that there is a fair probability that contraband or evidence of a crime will be found in the car. *State v. Yarbrough*, 841 N.W.2d 619, 622 (Minn. 2014). To search a car for marijuana after smelling it, the totality of the circumstances must indicate a fair probability that the car contains a criminal amount of marijuana. *State v. Torgerson*, 995 N.W.2d 164, 169 (Minn. 2023).

At the time of the search, marijuana was listed as a Schedule I controlled substance. Minn. Stat. § 152.02, subd. 2(h) (2022). Marijuana was defined as “all parts of the plant of any species of the genus *Cannabis*.” Minn. Stat. § 152.01, subd. 9 (2022). Minnesota law provided three exceptions that made cannabis possession noncriminal. *See Torgerson*, 995 N.W.2d at 169-70. The first exception was for “hemp,” defined as having a delta-9 tetrahydrocannabinol concentration of less than 0.3 percent. *See* Minn. Stat. § 152.22, subd. 5a (2022) (defining “hemp” by reference to the definition of “industrial hemp” set forth in Minn. Stat. § 18K.02, subd. 3 (2022)). The second exception was for medical cannabis possessed pursuant to Minnesota’s medical cannabis registry program. Minn. Stat. § 152.32, subd. 2 (2022). And the third exception made possession of a “small amount”—“42.5 grams or less”—of marijuana a noncriminal petty misdemeanor.¹

¹ “Petty misdemeanor” means a petty offense that is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than \$300 may be imposed. Minn. Stat. § 609.02, subd. 4a (2022).

Minn. Stat. §§ 152.027, subd. 4(a); .01, subd. 16 (2022). Under certain circumstances, possession of over 1.4 grams or more of marijuana in a motor vehicle was a misdemeanor, but possession of 1.4 grams or less was a noncriminal offense. Minn. Stat. § 152.027, subd. 3 (2022); *Torgerson*, 995 N.W.2d at 170. Consequently, under this statutory scheme, possession of marijuana was “not always a crime.” *Torgerson*, 995 N.W.2d at 170.²

Jacox-Mann argues the district court erred by determining that the officer had probable cause to search his vehicle. Jacox-Mann does not challenge the stop of his vehicle. Rather, Jacox-Mann argues the district court erred in determining that the officer had probable cause to search the car, contending that the officer’s sole basis for the search was the odor of marijuana. Jacox-Mann also argues that, even if other factors are considered, they do not amount to probable cause.

Under the automobile exception to the warrant requirement, “[w]hen probable cause exists to believe that a vehicle contains contraband, the Fourth Amendment permits the police to search the vehicle without a warrant.” *State v. Flowers*, 734 N.W.2d 239, 248 (Minn. 2007). Probable cause “exists when there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Torgerson*, 995 N.W.2d at 169 (quotation omitted). Probable cause is a totality-of-the-circumstances analysis that

² Currently, Minn. Stat. § 169A.36, subd. 3 (2024), provides that it is a crime for a person to possess, while in a private motor vehicle on a street or highway, any cannabis flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product, or any other product containing an artificially derived cannabinoid that has been removed from its packaging in which it was sold. This change was effective August 1, 2023. 2023 Minn. Laws ch. 63, art. 4, § 30, at 2837.

requires “more than mere suspicion but less than the evidence necessary for conviction.”

Id. (quotation omitted). The Minnesota Supreme Court has held:

[T]he odor of marijuana may be considered as part of the probable cause calculus. Specifically, the odor of marijuana is one of the circumstances in the totality of circumstances analysis that should be considered in determining if there is a ‘fair probability’ that contraband or evidence of a crime will be found in the location searched.

Id. at 174 (quotation omitted). But, on its own, the odor of marijuana “is insufficient to establish a fair probability that the search would yield evidence of criminally illegal drug-related contraband or conduct.” *Id.* at 175.

The district court determined that the strong odor of marijuana “emanating from the car,” and Jacox-Mann’s admission that “I do smoke weed,” can be considered when analyzing whether the officers had probable cause to search the vehicle for contraband. The district court determined that, “based on [Jacox-Mann’s] statement confirming that he smokes marijuana and the smell of marijuana emanating from the car,” the officer had probable cause that the vehicle contained contraband.

Jacox-Mann argues that the officer only stated that he was searching the car because of the odor of marijuana. Jacox-Mann contends that the officer did not articulate “a particularized and objective basis for suspecting the seized person of criminal activity.” *State v. Cripps*, 533 N.W.2d 388, 391 (Minn. 1995). The record consists of officer testimony at an omnibus hearing and the officer’s bodycam-footage of the incident. Besides the odor of marijuana—which can be considered within the totality of the circumstances for the probable cause calculus—the officer testified that a “marijuana vape”

was discovered on Jacox-Mann's person and that Jacox-Mann confirmed to the officer, "I do smoke weed." That said, even these added facts do not provide sufficient probable cause to search the vehicle. Admission of use and the smell of marijuana are not enough to suggest that there is a criminal amount of drugs in the vehicle. At the time of the search, possession of less than 1.4 grams of marijuana in a car was a petty misdemeanor, not a crime. Minn. Stat. § 152.027, subd. 3 (2020) (providing that possession of more than 1.4 grams of marijuana in a car is a misdemeanor).³ While the odor of marijuana is a factor in assessing probable cause for a search, the odor by itself "is insufficient to establish a fair probability that the search would yield evidence of criminally illegal drug-related contraband or conduct." *Torgerson*, 995 N.W.2d at 175. Similarly, neither admittance of use nor possession of a marijuana vape with an unknown quantity of marijuana is enough to establish the necessary fair probability.

The officer smelled marijuana, Jacox-Mann admitted that he did "smoke weed," and a marijuana vape of an unknown quantity was discovered on Jacox-Mann's person. But these circumstances, together or alone, are insufficient to establish that a criminal amount of marijuana would be discovered in the car. Thus, the officer did not have probable cause to believe Jacox-Mann's car contained contraband to justify the warrantless search of his automobile. *See id.* at 169.

³ The statute also provides two other noncriminal forms of marijuana: industrial hemp and medical marijuana. The district court addressed only industrial hemp.

While we conclude that the officer lacked probable cause to search the vehicle, we decline to analyze the state's alternative ground for denying Jacox-Mann's motion to suppress—inevitable discovery, which the state argued at the omnibus hearing in district court.⁴ The state contended that, because neither Jacox-Mann nor the passenger possessed a valid license, the evidence would have been discovered during a tow-inventory of the vehicle.⁵ The district court did not address the state's argument about inevitable discovery because it found that probable cause supported the warrantless search. "It is not within the province of [appellate courts] to determine issues of fact on appeal." *Kucera v. Kucera*, 146 N.W.2d 181, 183 (Minn. 1966); *Fontaine v. Steen*, 759 N.W.2d 672, 679 (Minn. App. 2009) (same) (*quoting Kucera*, 146 N.W.2d at 183).

Therefore, we reverse and remand to the district court to consider the state's alternative theory of inevitable discovery.

Reversed and remanded.

⁴ The inevitable-discovery exception provides that evidence seized in a warrantless search may be admissible if the state proves by a preponderance of evidence that the evidence "ultimately or inevitably would have been discovered by lawful means." *State v. Licari*, 659 N.W.2d 243, 254 (Minn. 2003).

⁵ When a vehicle involved in a stop requires removal from a location for traffic or safety reason, officers will conduct a tow-inventory, which includes an itemized listing of all the contents within a vehicle.