

*This opinion is nonprecedential except as provided by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
A25-0208**

State of Minnesota,
Respondent,

vs.

Jhonathan Jontae Robinson,
Appellant.

**Filed December 29, 2025
Affirmed
Bratvold, Judge**

Scott County District Court
File No. 70-CR-21-3109

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

Ronald Hocesvar, Scott County Attorney, Elisabeth M. Johnson, Assistant County Attorney, Shakopee, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrea Barts, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Schmidt, Judge; and Smith, John, Judge.*

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

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

This is a second appeal from the final judgment of conviction for obstruction of legal process. *See State v. Robinson*, No. A23-0251, 2024 WL 222475 (Minn. App. Jan. 22, 2024) (*Robinson I*), *rev. denied* (Minn. Apr. 16, 2024). After this court determined that law enforcement lacked probable cause to search appellant's car based solely on the odor of marijuana, we reversed and remanded for the district court to reopen the omnibus hearing and decide remaining issues in appellant's motion to suppress. *Id.* at *1-2, *4. On remand, the district court again denied appellant's motion to suppress. Arguing that the district court erred on remand, appellant now contends that the evidence supporting the obstruction conviction is the fruit of an illegal search. We disagree and conclude that suppression of the disputed evidence was not required. Thus, we affirm.

FACTS

This opinion summarizes the relevant facts with reference to this court's opinion in *Robinson I* as well as to record evidence.

On February 24, 2021, at about 12:13 a.m. in Savage, a law-enforcement officer (first officer) stopped appellant Jhonathan Jontae Robinson for driving "68 miles per hour in a 55 mile-per-hour zone." *Id.* at *1. The first officer "smelled an odor of marijuana coming from" Robinson's car, so she returned to the squad car "to call for backup to assist with a search." *Id.* After a few minutes, the first officer told Robinson that she smelled marijuana and "explained that she intended to conduct a search." *Id.* Robinson denied that his car smelled like marijuana and "refused to allow law enforcement to search." *Id.*

A second law-enforcement officer (second officer) “arrived and observed that Robinson was upset and that Robinson repeatedly refused law enforcement requests that he exit the vehicle.” *Id.* “While physically removing Robinson from the vehicle, the second officer ‘hit his hand.’” *Id.* Robinson told the officers that there was a firearm inside the car. *Id.* The officers searched Robinson’s car and “found a loaded handgun in the center console and a container of a green substance that tested positive for marijuana.” *Id.* After a *Miranda* warning, Robinson stated that he owned the firearm and marijuana. *Id.*

Respondent State of Minnesota charged Robinson with three counts: possession of a pistol without a permit under Minn. Stat. § 624.714, subd. 1a (2020); obstruction of legal process with force under Minn. Stat. § 609.50, subds. 1(2), 2(2) (2020); and possession of over 1.4 grams of marijuana in a motor vehicle under Minn. Stat. § 152.027, subd. 3 (2020).

Arguing that the search of his car was illegal, Robinson moved to suppress all evidence discovered in the search. *Id.* Robinson also moved to dismiss the charges for lack of probable cause. *Id.* After a contested omnibus hearing, the district court denied Robinson’s motions. *Id.*

In September 2022, the case proceeded to a jury trial. *Id.* at *2. On the first day of trial, the state moved to dismiss the marijuana-possession charge. The district court granted the motion and dismissed the charge. “The jury found Robinson guilty of both [remaining] counts, and the district court sentenced Robinson to concurrent 365-day sentences.” *Id.*

In his first appeal,¹ Robinson challenged the district court’s denial of his motion to suppress evidence and to dismiss the charges, arguing “that police lacked probable cause to search his vehicle based on the smell of marijuana alone.” *Id.* In reversing the district court’s decision, this court recognized that, while Robinson’s appeal was pending, “the Minnesota Supreme Court held that marijuana odor cannot serve as the sole basis to support probable cause for a vehicle search.” *Id.* (citing *State v. Torgerson*, 995 N.W.2d 164, 175 (Minn. 2023)).

This court concluded that, “[b]ecause the odor of marijuana alone could not support probable cause for law enforcement to search Robinson’s vehicle, the district court erred in denying Robinson’s motion to suppress and to dismiss on that basis.” *Id.* at *2-3. This court concluded, however, that “the district court did not address the merits of Robinson’s fruit-of-the-poisonous-tree claim” and declined to reach the issue “for the first time on appeal.” *Id.* This court instructed the district court on remand “to reopen the omnibus hearing as necessary to make a reasoned decision on the validity of Robinson’s fruit-of-the-poisonous-tree claim.” *Id.*²

¹ In the first appeal, this court explained that, in denying Robinson’s motions, “the district court determined that there was an objective legal basis for the traffic stop” based on the first officer’s observation that Robinson was speeding. *Robinson I*, 2024 WL 222475, at *2. This court also noted that “[t]here was no evidence and no finding by the district court that Robinson displayed any signs of driving impairment. Nor was there any evidence or finding by the district court that law enforcement observed contraband in plain view inside Robinson’s vehicle.” *Id.*

² This court also determined that the state forfeited its alternative argument that the good-faith exception to the exclusionary rule applied. *Id.* at *3.

On remand, the district court held a review hearing at which it stated it would vacate the firearm-possession conviction and dismiss that charge.³ The parties agreed that no additional evidence was necessary for the district court to determine the fruit-of-the-poisonous-tree issue. The parties submitted briefing, and the district court took the matter under advisement.

In November 2024, the district court issued a written order vacating the judgment of conviction for possessing a pistol without a permit and dismissing that charge. The district court also denied Robinson’s motion to suppress evidence of and to dismiss the obstruction charge. The district court found that “undisputed video evidence shows that [Robinson] *physically resisted* the officers’ efforts to get him out of the car when he refused and ended up physically striking one of the officers in the process.” The district court reasoned that, although law enforcement’s order that Robinson “exit the car may have been unlawful,” it is “well established that Minnesota law does not recognize [a] defendant’s asserted right to resist an unlawful arrest or search.” The district court modified Robinson’s sentence for the obstruction conviction to 364 days in jail “with 310 days of that time stayed for 24 months” and 54 days of credit for time served.

Robinson appeals.

³ At the review hearing, the district court stated that “the court of appeals reversed” the firearm-possession charge and remanded for the district court “to consider arguments about whether the second charge, the obstruction charge, falls as well in light of the court of appeals’ ruling that the search was invalid.” We do not agree with the district court’s view of *Robinson I*, which remanded for the district court to consider whether evidence of “the firearm” and Robinson’s “act in response” to the illegal search should be suppressed. *Id.* at *4. The state did not object to vacating the firearm-possession conviction or dismissing the charge.

DECISION

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. 1, § 10. “[W]arrantless searches are presumptively unreasonable unless one of a few specifically established and well-delineated exceptions applies.” *State v. Diede*, 795 N.W.2d 836, 846 (Minn. 2011) (quotations omitted). The automobile exception provides that “the police may search a car without a warrant, including closed containers in that car, if there is probable cause to believe the search will result in a discovery of evidence or contraband.” *State v. Lester*, 874 N.W.2d 768, 771 (Minn. 2016) (quotation omitted). But the smell of marijuana alone does not create probable cause to search a car during a traffic stop. *Torgerson*, 995 N.W.2d at 169-75.

On appeal, Robinson argues that *Robinson I* concluded that the search of his car was illegal; therefore, he argues, the obstruction evidence must also be suppressed as fruit of the poisonous tree under the United States Constitution.⁴ We recognize that our analysis of the district court’s decision on remand is governed by our decision in *Robinson I*. See *Townsend v. State*, 3 N.W.3d 13, 16 (Minn. 2024) (“[W]hen a court decides upon a rule of

⁴ Robinson alternatively argues that this court should suppress evidence of the obstruction charge “under the protections provided by the Minnesota Constitution.” In his brief to this court, Robinson offers no argument or legal authority to support his state constitutional argument. And Robinson did not assert a state constitutional argument during district court proceedings. Therefore, we decline to consider it. See *State v. Vasko*, 889 N.W.2d 551, 559 n.6 (Minn. 2017) (declining to reach a constitutional issue raised for the first time on appeal); *State v. Butcher*, 563 N.W.2d 776, 780 (Minn. App. 1997) (stating that inadequately briefed issues are not properly before an appellate court), *rev. denied* (Minn. Aug. 5, 1997).

law, that decision should continue to govern the same issues in subsequent stages in the same case.” (quotations omitted)). In the first appeal, this court concluded that the warrantless search of Robinson’s car was based solely on the odor of marijuana and that the automobile exception did not apply in light of *Torgerson*, which was decided while Robinson’s first appeal was pending. *Robinson I*, 2024 WL 222475, at *2-3.

The sole issue before us is whether the exclusionary rule applies to the evidence of Robinson’s obstruction. Minnesota applies the exclusionary rule, or fruit-of-the-poisonous-tree doctrine, which provides that, “[g]enerally, evidence seized in violation of the constitution must be suppressed.” *State v. Jackson*, 742 N.W.2d 163, 177-78 (Minn. 2007); see *Wong Sun v. United States*, 371 U.S. 471, 484-88 (1963) (establishing the fruit-of-the-poisonous-tree doctrine). The exclusionary rule suppresses “tangible materials obtained either during or as a direct result of an unlawful” search or seizure. *State v. McDonald-Richards*, 840 N.W.2d 9, 15 (Minn. 2013) (quotation omitted).

Whether the exclusionary rule prohibits the admission of evidence is a question of law that appellate courts review de novo. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004). The question central to this analysis is “whether, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint.” *Wong Sun*, 371 U.S. at 487-88 (quotation omitted).

In making this determination, the Minnesota Supreme Court has directed courts to weigh four *Warndahl* factors to determine whether evidence should be suppressed as fruit of the poisonous tree: (1) “the purpose and flagrancy of police misconduct”;

(2) “intervening circumstances”; (3) “whether law enforcement would have obtained the evidence without the illegal conduct”; and (4) “the temporal proximity between the illegal conduct and allegedly resulting evidence.” *State v. Leonard*, 943 N.W.2d 149, 161 (Minn. 2020); see *State v. Warndahl*, 436 N.W.2d 770, 776 (Minn. 1989) (listing four *Warndahl* factors). No caselaw requires all four factors to favor suppression of the evidence, so we treat this as a balancing test. We address the parties’ arguments on each factor in turn.

A. Purpose and Flagrancy of Police Misconduct

The purpose and flagrancy of police misconduct in conducting the illegal search “is especially important, because the aim of the exclusionary rule is to deter police misconduct by removing the incentive to disregard constitutional guarantees.” *State v. Bale*, 267 N.W.2d 730, 733 (Minn. 1978). Robinson appears to argue that, because law enforcement lacked the authority to search his car, to order him out of the car, or to arrest him, this factor “weighs in favor of suppression.” The state counters that law enforcement’s search of Robinson’s car based solely on the odor of marijuana was not “flagrant” misconduct because it “was repeatedly approved by this Court” until the supreme court’s landmark decision in *Torgerson*, 995 N.W.2d at 175.

To begin, apart from the illegal search of his car, Robinson has made no claim of other misconduct by law enforcement. And *Robinson I* determined that the search of the Robinson’s car was illegal because it was based solely on the odor of marijuana. 2024 WL 222475, at *3. It is therefore significant, as recognized in *Robinson I*, that the search of Robinson’s car followed the law at the time of Robinson’s traffic stop. *Id.* at *2-3.

The traffic stop occurred on February 24, 2021—two years before the supreme court issued *Torgerson*. At that time, this court’s precedential caselaw stated that the odor of marijuana alone supported probable cause to search a car. *State v. Pierce*, 347 N.W.2d 829, 833 (Minn. App. 1984) (“It has long been held that the detection of odors alone, which trained police officers can identify as being illicit, constitutes probable cause to search automobiles for further evidence of crime.”). And this court recently concluded that, before *Torgerson* was issued, “a well-trained law-enforcement officer would have acted in objectively reasonable reliance on binding appellate precedent” when conducting a search based solely on the odor of marijuana. *State v. Douglas*, 12 N.W.3d 751, 754, 758-62 (Minn. App. 2024) (listing court of appeals opinions relying on *Pierce*’s holding), *rev. granted* (Minn. Dec. 17, 2024). Because this court’s caselaw permitted the search of Robinson’s car at the time of the traffic stop, we conclude that the officers were not flagrantly disregarding constitutional guarantees when they searched Robinson’s car. *See Bale*, 267 N.W.2d at 733. Thus, this factor weighs against suppressing the evidence of obstruction.

B. Intervening Criminal Act by Robinson

Minnesota caselaw has long held that the commission of a new crime by a defendant purges the taint of a prior unlawful search or seizure. *See City of St. Louis Park v. Berg*, 433 N.W.2d 87, 89 (Minn. 1988) (“This court has rejected the contention that evidence of a defendant’s resistance to an illegal arrest must be suppressed as forbidden fruit of a Fourth Amendment violation by the police.”); *State v. Wick*, 331 N.W.2d 769, 771 (Minn. 1983) (“Minnesota law does not recognize [a] defendant’s asserted right to resist an unlawful

arrest or search.”); *State v. Engel*, 18 N.W.3d 540, 550 (Minn. App. 2025) (describing caselaw on intervening circumstances), *rev. granted* (Minn. June 17, 2025).

Robinson argues that the evidence supporting his obstruction conviction was “not intervening circumstances that precluded exclusion of the evidence” because he “was not resisting arrest or trying to flee” and “was not charged with or convicted of assaulting an officer.”⁵ The state counters that Robinson’s “act of physically resisting and pushing/hitting [an officer] was an intervening act that removes the taint from the illegal act” and that “Minnesota case law is firm on the subject: defendants cannot resort to self-help in the face of an unlawful search or arrest.”

The record supports the state’s view of Robinson’s conduct as an intervening criminal act. First, the jury found that Robinson was guilty of the “act of obstructing legal process or interfering with a peace officer” and used “force or violence or a threat of force or violence.” *See* Minn. Stat. § 609.50, subds. 1(2), 2(2). Second, on remand, the district court determined that “the obstruction charge was not based on Robinson simply declining the officers’ demand that he exit the car.” Based on the squad video, the district court found that Robinson “*physically resisted* the officers’ efforts to get him out of the car when he refused and ended up physically striking one of the officers in the process.”

⁵ Robinson also argues that caselaw on this issue “did not prevent Robinson from acting in accordance with Minn. Stat. § 609.06, subd. 1(4) (2020).” Under section 609.06, subdivision 1(4), “any person in lawful possession of real or personal property” may use “reasonable force” upon another person “in resisting a trespass upon or other unlawful interference with such property.” Robinson did not make this argument in district court. Thus, we decline to consider it on appeal. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating that appellate courts generally will not consider matters not argued to and considered by the district court).

Berg informs our analysis of this factor. In *Berg*, law enforcement tried to serve an arrest warrant on Berg at his parents' house. *Id.* at 88. When Berg ran from the kitchen toward a rear bedroom, two officers broke down the back door and chased Berg inside the house to effect the arrest. *Id.* Berg was charged with one count of obstruction of legal process and two counts of assault "for resisting and assaulting two police officers when they tried to arrest him." *Id.* at 87. After an omnibus hearing, the district court found that the officers beat Berg "repeatedly on the head with a flashlight or nightstick" during the arrest. *Id.* at 88. The district court concluded that "the actions of the police were illegal and unconstitutional in two respects, namely, 'forceable entry and gratuitous violence used against [Berg],' and that, consequently, the testimony of the police describing [Berg's] resistance would be suppressed." *Id.* at 89.

The supreme court reversed and remanded for trial, concluding that evidence of Berg resisting arrest could not be suppressed as fruit of the unlawful police entry. *Id.* at 89-92. In analyzing whether to apply the exclusionary rule to Berg's intervening acts, the supreme court focused on "whether the state is seeking to exploit the illegality of its agents to gain some advantage." *Id.* at 90. The supreme court determined that there was "no exploitation" for two reasons: (1) "the arrest did not lead to seizure of other evidence relating to the offense for which [Berg was] arrested or for some other offense," and (2) the officers were not "deliberately provoking [Berg] into committing a new crime of resisting arrest." *Id.*

Like Berg, Robinson physically resisted illegal police conduct. But unlike the state in *Berg*, the state here exploited the search of Robinson's car to obtain incriminating

evidence—the pistol and marijuana. The state sought to use this evidence to prove the marijuana-possession and firearm-possession charges, even though those charges were ultimately dismissed.

Still, Robinson’s obstructive behavior arose after officers asked him to exit the car and the search began. *Cf. Engel*, 18 N.W.3d at 551 (“Evidence *that exists at the time of* the illegal seizure is generally fruit of the poisonous tree because there have been no intervening acts of the defendant’s free will.” (emphasis added)). And law enforcement did not provoke Robinson “into committing a new crime of” obstruction. *Berg*, 433 N.W.2d at 90.

The record shows that Robinson had many opportunities to comply with law enforcement. Officers asked Robinson to exit the car for nearly 13 minutes. During the stop, the second officer stated: “You’re forcing our hand to force you out of this car. I don’t want to do that, that’s the last thing I want to do today.” The second officer then asked: “Is there anything I can say or do to get you to voluntarily comply with what I’m asking you to do?” Throughout the 13 minutes, Robinson refused to exit the car. When Robinson struck the second officer’s hand—in an intervening act of his own free will—he crossed the line and committed the new crime of obstruction. Thus, this factor weighs heavily against suppression.

C. Whether Police Would Have Obtained the Evidence Without Illegal Conduct

Robinson argues that it is “not likely that the evidence [of obstruction] would have been obtained in the absence of the officers’ illegality.” He maintains that, “[i]f the police

had not expanded the scope of the traffic stop based on the smell of marijuana alone, the obstruction would not have occurred.” The state concedes this point but argues that it does not resolve the suppression issue. The state argues that the “‘but for’ causation of this factor has not prevented” the admission of a defendant’s physical resistance in similar circumstances.

We conclude that whether law enforcement would have obtained the evidence proving Robinson’s obstruction without conducting an illegal search is one factor and not dispositive. *See Berg*, 433 N.W.2d at 90 (“[T]he real basis for not extending the exclusionary rule . . . is not a causation rationale, not a question of whether the defendant’s resistance and the police officers’ unlawful conduct are inextricably interwoven, but whether the state is seeking to exploit the illegality of its agents to gain some advantage.” (quotation omitted)). But if law enforcement had not asked Robinson to exit the car so they could perform an illegal search, Robinson likely would not have physically resisted a peace officer. Thus, this factor weighs in favor of suppression.

D. Temporal Proximity Between the Illegal Search and the Evidence of Obstruction

Finally, Robinson argues that the “causal chain between illegality and the evidence supporting the obstruction charge is not so attenuated that it would not serve the purpose of the exclusionary rule to exclude the evidence.” Robinson emphasizes that he “reacted spontaneously within seconds after [the officer] reached inside the vehicle’s window.” The state acknowledges temporal proximity between the illegal search and Robinson’s obstruction of legal process, but counters that “[a]ll of the cases where the defendants

committed an unlawful act in response to a perceived unlawful police conduct were close in time and interconnected with the police conduct.”

The record establishes temporal proximity between the illegal search of Robinson’s car and evidence of his obstruction of legal process. Shortly after smelling marijuana, law enforcement asked Robinson to exit the car for a vehicle search. About 12 minutes later, after repeatedly asking Robinson to exit the car, the officer put his hand inside the driver’s-side car window. Robinson immediately struck the officer’s hand. This is a brief window of time between the illegal search and the resulting evidence of obstruction. *See Leonard*, 943 N.W.2d at 162 (concluding that a two-hour gap between an illegal search and the discovery of resulting evidence favored suppression); *cf. Berg*, 433 N.W.2d at 88 (reversing suppression order and noting that Berg allegedly obstructed and assaulted police officers immediately after they illegally entered his parents’ home). This factor favors suppression.

Evaluating all four *Warndahl* factors, we conclude that two favor denying Robinson’s motion to suppress and two favor granting the motion to suppress. But this is not a mathematical decision; we balance the four factors. We acknowledge that law enforcement likely would not have obtained evidence of obstruction without the illegal search of Robinson’s car and that the search was close in time to the resulting evidence. Caselaw and our review of the record shows, however, that the police did not engage in flagrant misconduct because Minnesota appellate caselaw at the time of the traffic stop supported law enforcement’s search of Robinson’s car. And, most importantly, Robinson’s decision to strike a police officer was an intervening criminal act of free will that purged

“the subsequent conduct from the taint of the unlawful seizure.” *Engel*, 18 N.W.3d at 550.

These last two factors weigh heavily in favor of denying the application of the exclusionary rule here. Thus, the district court did not err in denying Robinson’s motion to suppress evidence of and to dismiss the obstruction charge.

Affirmed.