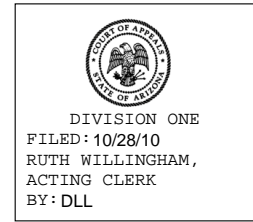


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 09-0776  
)  
Appellee, ) DEPARTMENT C  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
ALFANSO SAUNDERS, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-116542-003 DT

The Honorable Edward O. Burke, Judge

**AFFIRMED**

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Terry Goddard, Attorney General Phoenix  
By Kent E. Cattani, Chief Counsel  
Criminal Appeals Section/Capital Litigation Section  
And Angela Corinne Kebric, Assistant Attorney General  
Attorneys for Appellee

Robert Gaffney, Jr. Scottsdale  
Attorney for Appellant

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O R O Z C O, Judge

¶1 Alfanso Saunders (Defendant) appeals his convictions  
and sentences for conspiracy to possess marijuana for sale, a

class two felony, transportation of marijuana for sale, a class two felony, possession of marijuana for sale, a class two felony, and money laundering, a class three felony. He alleges the trial court erred in denying his motion to suppress the evidence obtained as result of the search of his unopened mail.

#### **FACTS AND PROCEDURAL HISTORY**

¶2 In March 2009, Phoenix detectives conducted surveillance of a house (the Stash House) suspected of being used for illegal drug activity. At 1:30 p.m., a Pontiac pulled in the garage, the garage door closed and fifteen minutes later the car left. After the Pontiac driven by Defendant left the Stash House, officers stopped the vehicle. Defendant allowed the officers to search the vehicle and found \$8,000 cash in a black shaving kit. The officers did not find any illegal substances during the search and Defendant was released.

¶3 The officers continued their surveillance of the Stash House and saw Defendant leave driving a silver Dodge Charger. Defendant drove to a Quality Inn Hotel but parked across the street in a shopping center's parking lot, even though parking was readily available in the hotel's parking lot. The officers conducting surveillance viewed this as suspicious because Defendant did not visit any stores in the shopping center; instead he walked across the street with the black shaving kit in his hand and went inside a room with a number of other people.

¶4 An hour later, C.W. and her daughter left the hotel room and drove off in the silver Dodge Charger parked in the shopping center. C.W. was pulled over for traffic violations and the officers found eleven bales of marijuana in the trunk of the silver Dodge Charger.

¶5 While continuing surveillance of the Stash House, detectives noticed three cars leave simultaneously. The cars were the Pontiac previously driven by Defendant, a Dodge Durango, and a second Dodge Charger and all were rental cars.<sup>1</sup> The cars were stopped based on the eleven bales of marijuana found during C.W.'s stop. Officer G. pulled the Pontiac over, which Defendant was driving. Officer G. conducted a search incident to arrest and found "a large amount of money" on Defendant. The Pontiac, Dodge Durango, and the second Dodge Charger were taken to the Maryvale Precinct and impounded. After being interviewed, another defendant, C.T., asked Detective B. to retrieve his sunglasses from the second Dodge Charger. When Detective B. got to the car, he noticed an unopened FedEx package sitting on the passenger seat that was addressed to Defendant or his trucking company. Detective B opened the package and found \$25,000 cash.

¶6 Defendant was charged with conspiracy to possess marijuana for sale, a class two felony, sale or transportation of

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<sup>1</sup> Detective B. testified that before he gave the order to stop the three vehicles, the license plates of the vehicles were run to determine the owners. All the vehicles were rentals.

marijuana, a class two felony, possession of marijuana for sale, a class two felony, and second degree money laundering, a class three felony. Before trial, Defendant filed a motion to suppress the evidence obtained by the police officer's search of both the Pontiac and FedEx package. The trial court denied Defendant's motion.

¶17 A jury found Defendant guilty on all counts; however, the court vacated Defendant's conviction for possession of marijuana for sale because it was a lesser-included offense of sale or transportation of marijuana. Defendant was sentenced to three concurrent five year sentences.

¶18 Defendant timely appealed and we have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes (A.R.S.) sections 12-120.21.A.1 (2003), 13-4031 (2010), and -4033.A. (2010).

#### **DISCUSSION**

¶19 Appellant claims that the search of his unopened mail violated his Fourth Amendment right under the United States Constitution and that the \$25,000 seized as a result of that search should have been suppressed. Defendant contends that letters or sealed packages are in the general class of effects in which the public at large has a legitimate expectation of privacy.

¶10 When reviewing the denial of a motion to suppress, we consider only the facts presented at the suppression hearing. *State v. Flower*, 161 Ariz. 283, 286 n.1, 778 P.2d 1179, 1182 n.1 (1989). Moreover, we view the evidence from the suppression hearing "in the light most favorable to sustaining the trial court's ruling." *State v. Weekley*, 200 Ariz. 421, 422, ¶ 3, 27 P.3d 325, 326 (App. 2001).

¶11 The Fourth Amendment to the United States Constitution protects one from unreasonable searches and seizures. One exception is the "automobile exception," which allows for a warrantless search of a vehicle that is stopped on the roadway or parked on a public street or parking lot, if probable cause exists. *California v. Carney*, 471 U.S. 386, 390, 392-93 (1985).

¶12 The Supreme Court has held:

[T]he police may search without a warrant if their search is supported by probable cause. The Court in *Ross* put it this way: "The scope of a warrantless search of an automobile . . . is not defined by the nature of the container in which the contraband is secreted. Rather, it is defined by the object of the search and the places in which there is probable cause to believe that it may be found."

*California v. Acevedo*, 500 U.S. 565, 579-80 (1991) (quoting *United States v. Ross*, 456 U.S. 798, 824 (1982)). "If 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" or contraband. *Ross*, 456 U.S. at 825.

¶13 The Supreme Court in *United States v. Johns*, 469 U.S. 478, 484 (1985), held exigent circumstances were not necessary to justify a warrantless search under the automobile exception. Specifically, the Supreme Court held that officers were able to wait until they returned to their headquarters to begin searching the vehicle and removing packages. *Id.* at 484. In *Johns*, the Court found the warrantless search of packages was not unreasonable merely because the officers stored the packages for three days before opening them. *Id.* at 486-87.

¶14 This Court has held, "collective knowledge of law enforcement officers may be considered to establish probable cause." *State v. Keener*, 206 Ariz. 29, 32, ¶ 14, 75 P.3d 119, 122 (App. 2003). "An officer has probable cause to conduct a search if a reasonably prudent person, based upon the facts known by the officer, would be justified in concluding that the items sought are connected with the criminal activity and that they would be found at the place to be searched." *State v. Buccini*, 167 Ariz. 550, 556, 810 P.2d 178, 184 (1991) (citation omitted). Reasonableness "is measured in objective terms by examining the totality of the circumstances." *Ohio v. Robinette*, 519 U.S. 33, 39 (1996).

¶15 In this case, when Detective B. was asked to retrieve C.T.'s sunglasses, the police officers had collective knowledge that defendants were engaged in illegal behavior. This included observing: Defendant drive the silver Dodge Charger into a suspected stash house; Defendant drive and park the silver Dodge Charger in the shopping center, later finding eleven bales of marijuana in that vehicle; the group from the hotel leave simultaneously in rental cars; Defendant take the case that earlier held \$8,000 cash into the hotel room and finding "a large amount of money" on Defendant's person; and the FedEx package that was addressed to Defendant or his trucking company.

¶16 Furthermore, Detective B testified about his training and experience, which included investigating over 100 cases that dealt with out of state organizations that purchase marijuana. He testified that those organizations typically: transport marijuana in various ways, including through a parcel in the mail; use rental cars; stay in hotels along the freeway or rent houses; and use counter-surveillance tactics where they have someone following the money or drugs or doing surveillance to see if anyone is watching them.

¶17 Based on all this evidence, a reasonably prudent person would conclude the vehicles were connected with criminal activity, thus Detective B. had probable cause to search the vehicle. Because he had probable cause he could also search the

items in the vehicle that might conceal objects or contraband, such as Defendant's unopened mail. Therefore, the opening of Defendant's mail did not violate his Fourth Amendment rights. See *Ross*, 456 U.S. at 825.

**CONCLUSION**

¶18 For the above stated reasons, we affirm Defendant's convictions and sentences.

/S/

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PATRICIA A. OROZCO, Judge

CONCURRING:

/S/

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MAURICE PORTLEY, Presiding Judge

/S/

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MARGARET H. DOWNIE, Judge