IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

STATE OF FLORIDA,

Appellant,

v. Case No. 5D20-2203

WILLIAM AUSTIN KOONTZ,

Appellee.

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Opinion filed June 18, 2021

Appeal from the Circuit Court for Marion County, Steven G. Rogers, Judge.

Ashley Moody, Attorney General, Tallahassee, and Kaylee D. Tatman, Assistant Attorney General, Daytona Beach, for Appellant.

David G. Mengers, Ocala, for Appellee.

PER CURIAM.

The State appeals the trial court's grant of William Koontz's motion to suppress evidence obtained from a warrantless search of a motor vehicle. We reverse.

Koontz and his companion, Ricci Benner, were fishing along the riverbank of the Ocklawaha River in Marion County when two Florida Fish and Wildlife Commission ("FWC") officers observed a truck lodged in the mud along the edge of the riverbed. Koontz sought assistance from the officers to help free the truck. After running the identities of Koontz and Benner through a law enforcement data base, the officers learned that Benner did not have a valid driver's license and that Koontz had an outstanding warrant for his arrest. Koontz attempted to flee but was unsuccessful; Benner was also detained but subsequently released.

The officers informed Koontz that since he was being arrested and Benner did not have a valid driver's license, the truck was going to be towed.[1] A resulting search of the truck revealed the presence of methamphetamine in the center console. Koontz was ultimately charged with possession of methamphetamine, possession of paraphernalia, and resisting without violence.

Koontz moved to suppress the evidence obtained from the warrantless search on the ground that it constituted an invalid search incident to arrest, highlighting that it was characterized as such in the arrest affidavit. At the suppression hearing, the State acknowledged the initial characterization but

[1] The truck was registered to Koontz's father.

maintained that the search was nonetheless valid as an inventory search, conducted in compliance with FWC's general orders. Testimony from one of the officers detailed the policies and procedures related to inventory searches and indicated that those procedures were followed during the course of impounding the truck. Notwithstanding, the trial court found the search to be an unlawful search incident to arrest, relying upon the arrest affidavit's initial characterization. As a result, the two possession charges were dismissed, and this appeal followed.

There are three ways law enforcement officers may conduct a warrantless search of a motor vehicle: "(1) incident to a lawful arrest of a recent occupant of the vehicle; (2) the 'automobile exception,' based on probable cause that the vehicle contains contraband or other evidence of a crime; and (3) pursuant to an inventory search." Jones v. State, 279 So. 3d 342, 347 (Fla. 5th DCA 2019) (citing State v. Clark, 986 So. 2d 625, 628 (Fla. 2d DCA 2008)). "[R]easonable police regulations relating to inventory procedures administered in good faith satisfy the Fourth Amendment . . . ." Colorado v. Bertine, 479 U.S. 367, 374 (1987). "The reasonableness of a purported inventory search is dependent upon it being a true good-faith inventory search and not a subterfuge for a criminal, investigatory search." Rolling v. State, 695 So. 2d 278, 294 (Fla. 1997).

Despite the initial characterization of the search as incident to arrest, the State maintains that the search was a valid inventory search administered in compliance with FWC's general orders. We agree. "The officers' characterization of the search . . . does not control. It is the actual nature of the search, not the label placed upon it by the officer, which controls." State v. Colson, 831 So. 2d 787, 789 (Fla. 5th DCA 2002); see also State v. Townsend, 40 So. 3d 103, 105 (Fla. 2d DCA 2010). The testimony at the suppression hearing established that the officers followed the standardized operating procedures outlined in their general orders, which permitted them to search the truck in preparation for its impoundment. See Townsend, 40 So. 3d at 105–06.

Further, the record is devoid of any indication that the officers' decision to conduct the inventory search was "a subterfuge for a criminal, investigatory search." See Rolling, 695 So. 2d at 294. The truck was mired in the bank of a navigable waterway, and the decision to tow the truck from that location was not only reasonable but in line with FWC's operating procedures.[2] Accordingly, the trial court erred in granting Koontz's motion to suppress.

[2] Contrary to Koontz's argument, once the determination to tow was made, the officers were not required to provide an alternative. See Robinson

REVERSED AND REMANDED.

COHEN, WALLIS and TRAVER, JJ., concur.

v. State, 537 So. 2d 95, 96 (Fla. 1989) ("Officers no longer are required to provide an alternative to impoundment, if they act in good faith.").