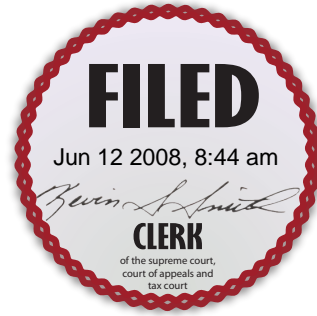


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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MARQUIS CHAMBERLAIN, )

Appellant-Defendant, )

vs. )

No. 49A05-0711-CR-617

STATE OF INDIANA, )

Appellee-Plaintiff. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Shatrese Flowers, Commissioner  
The Honorable Becky Pierson-Treacy, Judge  
Cause No. 49F19-0606-CM-119695

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**JUNE 12, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARTEAU, Senior Judge**

## STATEMENT OF THE CASE

Defendant-Appellant Marquis Chamberlain (“Chamberlain”) appeals from his conviction of carrying a handgun without a license, a Class A misdemeanor.

We affirm.

## ISSUES

Chamberlain presents the following issues for our review:

- I. Whether Chamberlain’s counsel was ineffective by failing to challenge Officer Rolinson’s initial traffic stop of Chamberlain’s vehicle; and
- II. Whether Chamberlain’s trial counsel was ineffective for failing to present the argument that the handgun that is the subject of the present offense was not in plain view.

## FACTS AND PROCEDURAL HISTORY

On June 30, 2006, Officer Rolinson of the Indianapolis Metropolitan Police Department (“IMPD”), observed Chamberlain operating a vehicle in Indianapolis, and noticed that the license plate of the vehicle was obscured by a clear bag. Officer Rolinson was able to maneuver his cruiser in such a way that he could read the license plate number. Rolinson then ran the license plate number through his computer and discovered that the plate did not match the vehicle operated by Chamberlain.

Although Rolinson initiated a traffic stop, Chamberlain continued driving for an additional two hundred feet prior to stopping. When Officer Rolinson asked Chamberlain for his driver’s license and vehicle registration, Chamberlain was unable to produce registration for the vehicle. While asking for this information, Rolinson, who

was outside the vehicle, was able to observe the handle of a pocket knife next to Chamberlain's leg, wedged between the driver's seat and the center console.

When questioned, Chamberlain denied having any weapons in the vehicle. Officer Rolinson did not believe the denial based on his own observations, and became fearful for his safety. Chamberlain was removed from the vehicle and placed in handcuffs.

Chamberlain was told that his vehicle was going to be towed and a citation issued due to the lack of proper registration for the vehicle. The front seat passenger was allowed to remove her belongings from the vehicle and leave. Officer Rolinson then followed IMPD procedure and began an inventory search of the vehicle prior to having it towed. Rolinson opened the back door of the driver's side of the vehicle and observed the butt of a .38 caliber revolver in an unzipped, open backpack. Officer Rolinson was able to observe the revolver without manipulating or touching the backpack. The officer then removed the revolver and secured it in his cruiser for transportation to the IMPD property room. Other items found in Chamberlain's car were inventoried. Officer Rolinson then arrested Chamberlain for the handgun offense and issued a citation for the license plate violation.

The State charged Chamberlain with carrying a handgun without a license, a Class A misdemeanor. Chamberlain's bench trial was held on June 7, 2007. Immediately before the bench trial, Chamberlain's counsel moved to suppress the evidence secured during the inventory search. Counsel's argued that the impounding of the vehicle was legal, but the inventory search was unreasonable. The trial judge heard the arguments of

counsel in addition to Officer Rolinson's testimony, and denied the motion. The trial proceeded and the trial judge found Chamberlain guilty as charged.

## DISCUSSION AND DECISION

### STANDARD OF REVIEW

To establish a claim of ineffective assistance of counsel, a defendant must satisfy two prongs: (1) the defendant must demonstrate that counsel performed deficiently and (2) the defendant must demonstrate that prejudice resulted. *Jewell v. State*, 877 N.E.2d 864, 873 (Ind. Ct. App. 2007). Inquiries into either of these prongs may be dispositive of the claim. *Id.*

Deficient performance is representation that fell below an objective standard of reasonableness, committing errors so serious that the defendant did not have the counsel guaranteed by the Sixth Amendment. *Id.* Although we focus on the attorney's actions, we are mindful that isolated mistakes, poor strategy, inexperience, and instances of bad judgment do not necessarily render representation ineffective. *Id.* There is a strong presumption that counsel rendered adequate assistance. *Id.* In order to satisfy the prejudice component, a defendant must show a reasonable probability that, but for counsel's errors, the result of the proceeding would have been different. *Id.* at 874.

#### I. FAILURE TO CHALLENGE VALIDITY OF TRAFFIC STOP

Chamberlain appears to claim that the admission into evidence of the handgun discovered during the inventory search of his car was erroneous. Chamberlain claims that had his trial counsel challenged the validity of the initial traffic stop, the handgun would not have been admitted in evidence.

The record reveals that Officer Rolinson started following Chamberlain's vehicle because the license plate attached to his vehicle was obscured from view by a plastic bag. When Officer Rolinson was able to read the license plate, he ran the numbers and ultimately stopped Chamberlain's vehicle because the license plate attached to the vehicle he was driving belonged to another vehicle. Ind. Code §9-18-2-26(b) provides in relevant part that a license plate shall be securely fastened to the vehicle for which the plate is issued in a condition to be clearly legible and not obstructed or obscured by other opaque objects. Ind. Code §9-18-2-17(a) further provides in relevant part that a vehicle required to be registered may not be used or operated upon the highways if the vehicle displays a registration number belonging to any other vehicle. A violation of those sections of that chapter constitutes a Class C infraction. Ind. Code §9-18-2-40.

Police officers may stop a vehicle when they observe minor traffic violations. *Smith v. State*, 713 N.E.2d 338, 342 (Ind. Ct. App. 1999). A police officer's subjective motives in initiating an investigatory stop are irrelevant in Fourth Amendment analysis. *Id.* A stop is valid provided there is an objectively justifiable reason for it. *Id.* If there is an objectively justifiable reason for the stop, then the stop is valid, regardless of the officer's ulterior suspicions or motives. *Id.* As noted above, Officer Rolinson testified that the license plate on Chamberlain's vehicle was obscured by a plastic bag, and upon further examination, was found to belong to another vehicle. Officer Rolinson's stop of Chamberlain's vehicle was valid. Consequently, any motion to suppress or object to the validity of the traffic stop would not have succeeded. In spite of that testimony present in the record, Chamberlain contends that the lack of evidence of any obstruction of the

license plate rendered Officer Rolinson's subsequent computer check of the license plate number "a mere fishing expedition." Appellant's Br. at 8. However, we have already cited to the officer's testimony about the obstruction. Moreover, a different panel of this court has held that a random license plate check is not a "search." See *Wilkinson v. State*, 743 N.E.2d 1267, 1269-71 (Ind. Ct. App. 2001). Therefore, Chamberlain's appellate challenge of his counsel's performance in this regard fails.

## II. HANDGUN IN PLAIN VIEW CHALLENGE

Chamberlain's next challenge to counsel's performance was that "there was no evidence that the discovery of the handgun appropriately fell within the plain view doctrine." Appellant Br. at 9. Chamberlain argues that Officer Rolinson had no reasonable suspicion to make the initial stop, and since the pocket knife that was the basis of Officer Rolinson's fear for his own safety was not admitted in evidence, the subsequent search of the car was unreasonable. Chamberlain argues that counsel's failure to present arguments along those lines deprived him of effective assistance of counsel.

For a search to be reasonable under the Fourth Amendment, a warrant is required unless an exception to the warrant requirement applies. *Taylor v. State*, 842 N.E.2d 327, 220 (Ind. 2006). The State bears the burden of proving that a warrantless search falls within an exception to the warrant requirement. *Id.* A valid inventory search is a well-recognized exception to the warrant requirement. *Id.* In determining the propriety of an inventory search, the threshold question is whether the impoundment itself was proper.

*Id.* at 331. An impoundment is warranted when it is part of routine administrative caretaking functions of the police or when it is authorized by statute. *Id.*

Ind. Code §9-18-2-43(a) authorizes officers who discover vehicle registration violations to impound the vehicle. As previously discussed, Officer Rolinson discovered that Chamberlain's vehicle was not properly registered. Officer Rolinson testified that he conducted an inventory search prior to having the vehicle towed in order to ensure the car's owner against a loss of property. Officer Rolinson testified that he saw the butt of the handgun when he opened the back driver's side door of Chamberlain's vehicle when he was conducting his inventory search. There was no manipulation of the backpack in order for the handgun to be visible, and other items inside the vehicle were inventoried. The record does not reflect that the inventory search was a pretext search.

Plain view analysis is not required in this instance because the handgun was discovered during a valid inventory search authorized by statute after a valid traffic stop. Consequently, Chamberlain's counsel was not deficient for failing to raise this argument below. Moreover, the State was not required to introduce the pocket knife in evidence. The officer testified that he observed the handle of the knife and became fearful for his own safety after Chamberlain denied the presence of any weapons. Therefore, Chamberlain's argument along these lines fails.

#### CONCLUSION

The initial traffic stop of Chamberlain's vehicle was valid. The handgun was discovered in the course of a valid inventory search of the vehicle. Therefore,

Chamberlain's counsel was not ineffective for failing to raise those issues below. The handgun was properly discovered and admitted in evidence.

Affirmed.

FRIEDLANDER, J., and MATHIAS, J., concur.