This opinion is nonprecedential except as provided by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
A21-0776

State of Minnesota,
Respondent,

vs.

Amber Kay Barrow,
Appellant.

Filed May 16, 2022
Affirmed
Slieter, Judge

Stearns County District Court
File No. 73-CR-18-5748

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

Janelle P. Kendall, Stearns County Attorney, River D. Thelen, Assistant County Attorney, St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Abigail H. Rankin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Segal, Chief Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the district court's order denying her motion to suppress evidence of drug possession arguing that the police officer's warrantless search of her purse was unconstitutional because a purse is an extension of her person and thus, not subject to

a warrantless search. Because a purse is a container which is subject to the automobile-exception to the warrant requirement, we affirm.

FACTS

In March 2018, appellant Amber Kay Barrow was the passenger in a vehicle stopped by an officer from the Avon Police Department after observing the driver "hit the brakes hard"; "decelerate[] quickly"; and "cross over lane lines and swerve in its own lane."

After approaching the vehicle and while speaking with the driver and appellant, the officer smelled marijuana coming from inside the vehicle. The occupants denied possessing marijuana but stated that they had left a friend's house where multiple people had been smoking marijuana. During her discussion with the officer, appellant admitted that she is a recovering methamphetamine addict.

The officer asked the occupants to step out of the vehicle. They complied. The officer noticed that appellant was carrying her purse and he asked her to "leave your purse in there." Appellant set the purse on the vehicle's trunk. After confirming with appellant that she did not have any weapons on her, the officer placed the purse back inside the vehicle and commenced a vehicle search.

The officer asked appellant whether she currently possessed methamphetamine. She responded that, in "the middle zipper pocket of [her] purse," she had a "used needle" and "a baggy" which formerly contained methamphetamine. While searching inside appellant's purse, the officer found a hypodermic needle, a spoon, a straw, cotton swabs, and four pills later identified as clonazepam, a controlled substance. The officer also found a glass jar in the glove compartment that he believed formerly contained marijuana.

Appellant was arrested and charged with one count of fifth-degree possession of a controlled substance based upon the possession of the "four pills identified as Clonazepam, a schedule IV controlled substance," in violation of Minn. Stat. § 152.025, subd. 2(1) (2016). Appellant moved to suppress the evidence obtained as a result of the purse search, arguing that her purse was an "extension" of her person, not a "container" in the vehicle, and was thus not subject to the automobile-search exception. The district court denied the motion.

Appellant agreed to a stipulated-evidence court trial, pursuant to Minn. R. Crim. P. 26.01, subd. 4. The district court accepted the stipulation, including appellant's personal waiver of her trial rights, found appellant guilty, and sentenced her. Barrow appeals.

DECISION

"When reviewing the denial of a pretrial motion to suppress evidence, [appellate courts] review the district court's factual findings for clear error and its legal conclusions de novo." *State v. Molnau*, 904 N.W.2d 449, 451 (Minn. 2017).

The United States and Minnesota Constitutions protect against "unreasonable searches and seizures." U.S. Const. amend. IV; Minn. Const. art. I, § 10. The supreme court has said that a warrantless search is "presumptively unreasonable unless one of a few specifically established and well-delineated exceptions applies." *State v. Licari*, 659 N.W.2d 243, 250 (Minn. 2003) (quotation omitted). The state bears the burden of proving an exception applies. *Id.* "If a warrantless search does not fall within a proper exception, its fruits must be suppressed." *State v. Hummel*, 483 N.W.2d 68, 72 (Minn. 1992).

The automobile exception provides that if the police have "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) (quoting *State v. Search*, 472 N.W.2d 850, 852 (Minn. 1991)), "they may search every part of the vehicle and its contents which may conceal the object of the search." *State v. Bigelow*, 451 N.W.2d 311, 311 (Minn. 1990). The scope of the search may include closed compartments, *Chambers v. Maroney*, 399 U.S. 42, 44-45, 52 (1970), locked trunks, *Cady v. Dombrowski*, 413 U.S. 433, 448 (1973), and closed containers within a vehicle, *U.S. v. Ross*, 456 U.S. 798, 821-22 (1982).

Appellant does not challenge that the officer possessed probable cause to search the vehicle and that the search of the vehicle fell within the automobile exception. However, she claims that her purse was "an extension of her person," pursuant to *State v. Wynne*, 552 N.W.2d 218 (Minn. 1996), and, therefore, not a "container" subject to the automobile exception. Appellant's reliance on *Wynne* is unpersuasive and we conclude the automobile exception applies to the warrantless search of a passenger's purse.

The search in *Wynne* involved a warrant to search Wynne's mother's home and persons at the residence. 552 N.W.2d at 219. In *Wynne*, officers had begun their search, seizing various controlled substances and paraphernalia, when "Wynne arrived home in a car . . . to discover the search in progress." *Id.* Officers questioned Wynne as she exited her vehicle and learned that she lived in the home. *Id.* Officers took Wynne's purse, escorted her into the home, searched her purse without her consent, and discovered controlled substances and drug paraphernalia. *Id.*

Ultimately, the supreme court concluded that "the search of Wynne's purse constituted a search of her person and did not fall within the ambit of the premises search warrant." *Id.* at 220. Moreover, it held that the automobile exception was "inapplicable to the present situation" because "Wynne's purse was . . . brought into the home by officers from an automobile that was driven onto the premises after the search was commenced." *Id.* Thus, the search of Wynne's purse was unconstitutional. *Id.*

Unlike *Wynne*, the automobile exception plainly applies to the present case. The officer conducted a traffic stop of a vehicle occupied by appellant and appellant's purse was in the vehicle when the officer established probable cause based on the marijuana smell. Therefore, the automobile-search exception applies and provides exceedingly broad authority to search the contents of the vehicle, including all containers that could conceal contraband, such as appellant's purse. *See Bigelow*, 451 N.W.2d at 313 (holding that, if police have probable cause to search an automobile for drugs or other contraband, they may search every part of the vehicle and its contents which may conceal the object of the search).

In sum, *Wynne*, a residence-search warrant case, is inapplicable in this automobile-search-exception case and, because the officer had probable cause to search the automobile for evidence of drug possession, he could search appellant's purse without violating her Fourth Amendment right to be free from an unreasonable search and seizure.[1]

Affirmed.

[1] Appellant summarily argues that the automobile exception does not authorize the search of her purse because her "purse was only in the car during the search because the officer

manipulated the scene by having [appellant] remove it from her person and by then picking up the bag and putting it back into the vehicle." However, appellant fails to support her argument with any citation to legal authority and, therefore, we do not address it. *State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002); *see also State v. Myhre*, 875 N.W.2d 799, 806 (Minn. 2016).