

## **APPENDIX**

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## APPENDIX A

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In the  
United States Court of Appeals  
For the Seventh Circuit

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No. 22-3294

UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

*v.*

CHARLES R. HAYS,

*Defendant-Appellant.*

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Appeal from the United States District Court for the  
Central District of Illinois.

No. 3:20-cr-30021 — **Sue E. Myerscough, Judge.**

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ARGUED NOVEMBER 6, 2023 – DECIDED  
JANUARY 12, 2024

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Before FLAUM, SCUDDER, and KIRSCH, *Circuit Judges.*

KIRSCH, *Circuit Judge.* After stopping the car Charles Hays was driving, officers observed Hays's passenger possessing methamphetamine and a

smoking pipe. Officers searched the car's interior, finding a screwdriver in the center console but no drugs. An officer then searched under the car's hood and found methamphetamine in the air filter. The only issue on appeal is whether the officers had probable cause to search under the car's hood, including inside the air filter. Because the automobile exception to the Fourth Amendment's warrant requirement authorizes officers to search a car without a warrant if there is probable cause to believe it contains contraband, including all parts of the car in which there is a fair probability contraband could be concealed, we conclude they did.

## I

The following facts are not in dispute. In October 2019, Illinois State Police (ISP) Inspector Evert Nation received information that a male subject known as "Chuck" was distributing methamphetamine in Christian County, Illinois. That same month, ISP agents were surveilling a suspected drug trafficking location in Christian County and observed a man driving a silver Cadillac arrive at the location. The agents determined that the car was registered to Brenda Berger, and the driver, Charles Hays, was her son.

On October 15, 2019, Inspector Nation spotted the Cadillac traveling toward Taylorville, Illinois, and noticed that the vehicle did not have working taillights. Inspector Nation notified the Taylorville police chief, Dwayne Wheeler, of his observation. Chief Wheeler located the Cadillac and, after noticing its illegal tints and observing it cross the center lane

twice, initiated a traffic stop with help from Officer Jeremy Alwerdt.

During the stop, the officers identified the driver as Hays, and Officer Alwerdt recognized the passenger, Tamera Wisnasky, from previous encounters and knew she had an outstanding arrest warrant. When questioned, Wisnasky falsely identified herself as Kayla. Officer Alwerdt noticed that Wisnasky was attempting to conceal something in her right hand, which he recognized as a glass pipe used to smoke methamphetamine. Officer Alwerdt then went to grab Wisnasky's hands, at which time he observed her shove something in her mouth. At Officer Alwerdt's demand, Wisnasky spit out the object, and he identified it as a plastic container carrying suspected methamphetamine. Wisnasky was consequently arrested. Meanwhile, Chief Wheeler directed Hays to get out of the car. During questioning, Hays looked nervous, falsely identified Wisnasky as Kayla, and stated that he had been arrested before and gone to prison for drug possession.

At that point, the officers decided to search the Cadillac. The officers did not find contraband inside the passenger compartment but spotted a screwdriver in the center console, which they knew could be used to hide drugs in traps within vehicles. An officer then searched under the hood, including inside the air filter (a screwdriver is used to open the air filter housing box). In the air filter housing, he found a bag containing methamphetamine.

Following indictment, Hays moved to suppress the evidence obtained during the traffic stop, which the district court denied. Hays pleaded guilty to

possession with the intent to distribute 50 grams or more of methamphetamine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A), reserving his right to appeal the district court’s denial of his motion to suppress. On appeal, Hays argues that the officers did not have probable cause to search under the hood and in the air filter.

## II

We review the district court’s probable cause determination de novo. *United States v. Williams*, 627 F.3d 247, 251 (7th Cir. 2010).

Under the automobile exception to the Fourth Amendment’s warrant requirement, officers may conduct “a warrantless search of a vehicle … so long as there is probable cause to believe it contains contraband or evidence of illegal activity.” *United States v. Washburn*, 383 F.3d 638, 641 (7th Cir. 2004) (citing *Carroll v. United States*, 267 U.S. 132, 153–56 (1925)). It is well settled that officers can search a car without a warrant where there is probable cause to believe that illegal substances are present. See, e.g., *Wyoming v. Houghton*, 526 U.S. 295, 300–02 (1999) (holding that officers could conduct a warrantless search of a car where they “had probable cause to believe there were illegal drugs in the car”); *United States v. Johnson*, 383 F.3d 538, 545 (7th Cir. 2004) (finding probable cause to search a car, including the trunk, without a warrant where the officer discovered a controlled substance which had fallen out of the defendant’s hat). During the traffic stop, officers saw Wisnasky in possession of a pipe for smoking methamphetamine and methamphetamine itself, and officers knew that Hays was recently seen at a known

drug trafficking location. True, as Hays argues, the officers observed Hays's passenger, rather than Hays himself, with methamphetamine. But we previously held that under the automobile exception, an officer had the authority to conduct a warrantless search of a car when he discovered the passenger in possession of contraband. *United States v. McGuire*, 957 F.2d 310, 314 (7th Cir. 1992) ("Once Trooper Newman discovered that [the passenger] was transporting open, alcoholic liquor ... he had probable cause to believe that the car contained additional contraband or evidence."); see *Houghton*, 526 U.S. at 304–05 (rejecting a driver/passenger distinction and noting that a vehicle's driver and passenger "will often be engaged in a common enterprise ... and have the same interest in concealing the fruits or the evidence of their wrongdoing"). Thus, the officers had probable cause to search the car's interior.

Further, officers may search all containers within a car "where they have probable cause to believe contraband or evidence is contained." *California v. Acevedo*, 500 U.S. 565, 580 (1991). In other words, "[i]f 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[,]" *Houghton*, 526 U.S. at 301 (quotation omitted) (emphasis in the original), "including closed compartments, containers, packages, and trunks," *Williams*, 627 F.3d at 251. To justify probable cause for a search, "[a]ll that is required is a fair probability of discovering contraband." *Id.* at 252. This is true "without qualification as to ownership" of the containers searched. *Houghton*, 526 U.S. at 301. Once the officers began searching the car's interior, they

discovered a screwdriver in the center console but nothing else to suggest that the screwdriver was a tool of Hays's trade. Based on their experience, the officers knew that the screwdriver could have been used to hide methamphetamine in the vehicle. Thus, considering the circumstances leading up to and during the stop "viewed from the position of a reasonable police officer," *United States v. Hines*, 449 F.3d 808, 815 n.7 (7th Cir. 2006), the officers reasonably found a fair probability that the area under the hood, including the air filter, could contain methamphetamine. See *United States v. Eymann*, 962 F.3d 273, 286 (7th Cir. 2020) ("Probable cause to search a vehicle exists 'if, given the totality of the circumstances, there is a fair probability that contraband or evidence of a crime will be found in a particular place.'") (quotation omitted); see also *United States v. Patterson*, 65 F.3d 68, 71 (7th Cir. 1995) (finding probable cause to search behind a vehicle's tailgate panel where officers observed missing screws from the tailgate interior and a drug-sniffing dog alerted to the odor of drugs).

AFFIRMED

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## APPENDIX B

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION**

UNITED STATES OF )  
AMERICA, )  
Plaintiff, )  
 )  
 )  
 )  
v. ) Case No. 20-cr-  
 ) 30021  
CHARLES HAYS, )  
 )  
Defendant. )

**OPINION**

**SUE E. MYERSCOUGH, U.S. District Judge:**

Before the Court is Defendant Charles Hays' Motion to Suppress (d/e 33). Hays seeks to exclude all evidence resulting from a traffic stop conducted on October 15, 2019. Hays argues that evidence seized from a search of his entire vehicle must be suppressed because the initial traffic stop was unlawful, the stop was unreasonably prolonged, and the subsequent warrantless search of the vehicle was unlawful. For the reasons below, the Court DENIES Hays' motion.

## I. BACKGROUND<sup>1</sup>

On October 15, 2019, law enforcement with the Central Illinois Enforcement Group had been conducting a drug investigation in Christian County, Illinois. Agents had received information regarding a male subject from Centralia, Illinois, named “Chuck” that had been supplying methamphetamine in the Christian County, Illinois area. Agents were conducting surveillance on a suspected drug target location, when they observed a Silver Cadillac arrive at the location with Illinois registration BK92409. A male suspect exited the vehicle. After determining that the vehicle was registered to Brenda Berger, agents checked Brenda Berger’s Facebook page and were able to determine that the male suspect was Charles (“Chuck”) Hays, Brenda Berger’s son.

At approximately 6:02 p.m. on October 15, 2021, Inspector Jeff Brown contacted Illinois State Police (ISP) Inspector Evert Nation and told him that the same Cadillac was just seen at a suspected drug target location in Pana, Illinois. Inspector Brown and Inspector Nation went to conduct surveillance at that location. At approximately 6:15 p.m., while Inspector Nation was on his way to Pana, Illinois, he observed a Silver Cadillac and identified it as the target vehicle. In his report, Inspector Nation states that he noted that the vehicle did not have any working tail lights at

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<sup>1</sup> The Court relies on the law enforcement reports filed in docket entry 37, as well as the parties’ briefs for the relevant facts. The majority of the facts taken from these reports appears undisputed, but the Court notes where Hays may contest the underlying facts.

that time. However, Hays' Motion, he notes that the video evidence does not show that his tail lights were off. The parties agree that the vehicle's headlights and tail lights were turned on by the time of the traffic stop described below.

Inspector Nation contacted Taylorville Police Chief Dwayne Wheeler and told him about the vehicle and the equipment violation he had observed (no tail lights). Inspector Nation advised Chief Wheeler that he should pull the vehicle over for any traffic violations. Inspector Nation also either told K9 Officer Alwerdt to be on standby or advised Chief Wheeler that K9 Officer Alwerdt was on standby.

Shortly thereafter, Chief Wheeler got behind the Silver Cadillac as it drove down the road. Chief Wheeler's report states that he noticed that the vehicle had illegal tints on the side-windows and that he saw the Silver Cadillac cross the center line twice. Again, as noted by Hays, this alleged traffic violation did not occur while the dash camera was recording. Chief Wheeler notified Inspector Nation of the traffic violations and told Inspector Nation that he would stop the vehicle. Chief Wheeler activated his lights, which also activated Chief Wheeler's dash camera. Chief Wheeler pulled over the Silver Cadillac in a Family Video store parking lot. Officer Alwerdt pulled into the parking lot as well.

Chief Wheeler approached the driver's side, and Officer Alwerdt approached the passenger side. The driver was identified as Hays. Chief Wheeler advised Hays about the tints on his vehicle and asked for his driver's license and insurance. Chief Wheeler ran

Hays' driver's license and found that the license was valid and clear.

Meanwhile, Officer Alwerdt identified the female passenger as Tamera Wisnasky. Officer Alwerdt knew Ms. Wisnasky from previous law enforcement contact and knew that there was an outstanding warrant for her arrest. When Officer Alwerdt asked Ms. Wisnasky for her name, she provided the false name of "Kayla." Officer Alwerdt asked her to get out the vehicle and noticed her right hand was attempting to conceal something. He asked Ms. Wisnasky to show him her hands, but she refused. Officer Alwerdt then grabbed Mr. Wisnasky's right hand and found a blue glass pipe used to smoke methamphetamine. When Officer Alwerdt went to grab Ms. Wisnasky's left hand, she shoved something in her mouth. Officer Alwerdt then grabbed her jaw and told her to spit it out. She then spit out a greenish-clear plastic case. Inside the case was a crystal like substance suspected to be methamphetamine. The substance field-tested positive for methamphetamine, with a weight of approximately 2.9 grams. Ms. Wisnasky was put in handcuffs and placed in the back of a squad car.

Chief Wheeler asked Hays to get out of the vehicle, and he was placed in handcuffs. The report indicates that he was not under arrest, but just detained "due to the circumstances." Hays' Motion states that Chief Wheeler said "I'm just detaining you because of what's going on right now, ok?" Motion at 2 (d/e 33). Chief Wheeler asked Hays to tell him the female passenger's name. Hays also gave the false name "Kayla" for Ms. Wisnasky and stated that he was just dropping her off. Chief Wheeler then asked if Hays had ever been

arrested, to which Hays stated he had been arrested for possession and he went to prison.

Law enforcement then proceeded to search the vehicle. One officer found a screw driver in the center console of the passenger compartment. An officer asked Hays whether anything was in the car. Hays answered no and also stated repeatedly that it was not his car. Law enforcement found no contraband inside the passenger compartment of the vehicle, but, after opening the hood of the vehicle, found a zip-lock bag inside the air filter that contained a white crystal-like substance suspected to be methamphetamine. The substance tested positive for methamphetamine, weighing approximately 62.3 grams.

Hays' Motion also highlights additional dialogue during the search that was captured by the dash-camera footage but was not in the reports. During the search of the passenger compartment, Officer Alwerdt states that, if they do not find anything on the first search, then they will impound it. Chief Wheeler asks Officer Alwerdt "Do you want to have your dog go around?" Officer Alwerdt says "No, we already found it," presumably referring to the methamphetamine found on Ms. Wisnasky. Overall, from the start of the traffic stop until the methamphetamine was found in the air filter, approximately 40 minutes passed.

After the stop was complete, Hays was released pending further investigation. On March 4, 2020, a federal grand jury charged Defendant with, on or about October 15, 2019, knowingly and intentionally possessing 50 grams or more of methamphetamine with the intent to distribute it, in violation of 21 U.S.C. § 841(b)(1)(A)(viii) (Count One); on or about November

27, 2019, knowingly and intentionally possessing 5 grams or more of methamphetamine with the intent to distribute it, in violation of 21 U.S.C. § 841(b)(1)(B)(viii) (Count Two); and on or about November 27, 2019, knowingly and intentionally possessing a firearm in furtherance of the drug trafficking crime charged in Count Two, in violation of 18 U.S.C. § 924(c)(1)(A)(i) (Count Three). Indictment (d/e 7).

On August 17, 2021, Hays filed this Motion to Suppress (d/e 33), in which Hays seeks to suppress the drugs at issue in Count One of the Indictment. The Government filed its response in opposition on August 19, 2021.

## **II. ANALYSIS**

Hays argues that the evidence from the October 15, 2019 traffic stop should be suppressed because it was the result of an illegal traffic stop, the warrantless search of the vehicle was unlawful, and the stop was unreasonably prolonged. However, the Court finds that the initial traffic stop was lawful, and, even if it was not lawful, Ms. Wisnasky's outstanding arrest warrant qualified as intervening circumstances. Further, the Court finds that the later warrantless search of the vehicle was justified under the automobile exception. Hays' remaining arguments are irrelevant to the evidence recovered in the search.

### **A. The Initial Traffic Stop was Lawful and, Even if it Had Been Unlawful, Intervening Circumstances Justified the Stop and Subsequent Search.**

A traffic stop for a suspected violation of law is a “seizure” of the occupants of the vehicle and, therefore,

must be conducted in accordance with the Fourth Amendment. *Heien v. North Carolina*, 574 U.S. 54, 60, 135 S. Ct. 530, 536 (2014) (citing *Brendlin v. California*, 551 U.S. 249, 255–259, 127 S.Ct. 2400 (2007)). An officer only needs “reasonable suspicion” that the person being stopped has broken the law. *Id.* A traffic stop is also lawful if the officer has probable cause to believe a traffic violation occurred. *Whren v. United States*, 517 U.S. 806, 809–10, 116 S.Ct. 1769 (1996) (affirming trial court’s finding of probable cause for traffic stop, regardless of officer’s subjective motivation, where defendant’s truck was stopped at stop sign for an unusually long time before turning suddenly without signal and driving off at an unreasonable speed). “Probable cause exists when ‘the circumstances confronting a police officer support the reasonable belief that a driver has committed even a minor traffic offense.’” *United States v. Simon*, 937 F.3d 820, 828–29 (7th Cir. 2019), *cert. denied*, 140 S. Ct. 824 (2020) (quoting *United States v. Cashman*, 216 F.3d 582, 586 (7th Cir. 2000)). The officer’s subjective motivation for making the stop is irrelevant to the Fourth Amendment analysis. *Simon*, 937 F.3d at 829; *see also Whren*, 517 U.S. at 813.

Here, Chief Wheeler’s report indicates that he conducted a lawful traffic stop based on his reasonable suspicion and/or probable cause to believe that Hays had committed the traffic violations of operating a vehicle without the required use of headlights and tail lights, *see* 625 ILCS 5/12-201(b) (requiring use of headlights and tail lights “during the period from sunset to sunrise, . . . and at any other times when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are

not clearly discernible at a distance of 1000 feet.”)<sup>2</sup>; improper lane usage, *see* 625 ILCS 5/11-709(a) (“A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.”); and illegally-tinted side windows, *see* 625 ILCS 5/12-503(a-5) (prohibiting window tinting on windows immediately adjacent to the driver with certain exceptions).

Hays argues that the dash camera footage shows that one can see through the back window of Hays’ vehicle. Accordingly, Hays does not believe it was likely that the windows were illegally tinted. The report, however, only mentions the side-windows as being potentially illegally tinted, so this point is irrelevant. Hays’ Motion also argues that the dash camera footage does not show any traffic violations. However, the report indicates that the dash camera was turned on after the violations were observed. Assuming the officer’s accounts of the observed traffic violations are credible—which Hays does not clearly challenge in his motion—there was probable cause to pull Hays over for committing the traffic violations.

Even if the initial traffic stop was unlawful, the “evidence seized as a result of [an] unlawful traffic stop may be introduced into evidence at trial if intervening circumstances establish that the evidence came about without ‘exploitation of that illegality [and] instead by means sufficiently distinguishable to

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<sup>2</sup> Sunset on October 15, 2019 occurred at 6:21:15 p.m. *See* Gov’t Resp. at 4 (d/e 36) (citing <https://sunrisesunset.org/us/springfield-il/2019/10>).

be purged of the primary taint.” *United States v. Johnson*, 383 F.3d 538, 544 (7th Cir. 2004) (quoting *United States v. Green*, 111 F.3d 515, 520 (7th Cir. 1997)). Courts are required to examine “three factors when determining whether sufficient attenuation exists to dissipate the initial taint of unlawful police conduct: (1) the time elapsed between the illegality and the acquisition of the evidence; (2) the presence of intervening circumstances; and (3) the purpose and flagrancy of the official misconduct.” *Johnson*, 383 F.3d at 544 (citations omitted).

Here, during the traffic stop, Officer Alwerdt recognized the passenger, Ms. Wisnasky, as someone with an outstanding criminal warrant. The Seventh Circuit has found that “in the unusual case where the police, after a questionable stop, discover an occupant is wanted on an arrest warrant” the intervening circumstances exception may apply. *Green*, 111 F.3d at 523. In *Green*, the police stopped a vehicle after it had come from a residence of an individual wanted on a federal warrant. *Id.* at 517. Officers believed that the occupants of the vehicle might have knowledge of the whereabouts of the wanted individual, but the Seventh Circuit found that this did not amount to reasonable suspicion to stop the vehicle. *Id.* However, during the course of the stop, the officers discovered that the passenger of the vehicle had an outstanding warrant. *Id.* After arresting the passenger, the vehicle was searched incident to arrest and crack cocaine was found in two separate bags in the passenger compartment of the vehicle. *Id.* Despite the lack of reasonable suspicion to stop the vehicle, the Seventh Circuit found the subsequent search lawful due to the discovery of the outstanding arrest warrant

of the passenger: “It would be startling to suggest that because the police illegally stopped an automobile, they cannot arrest an occupant who is found to be wanted on a warrant—in a sense requiring an official call of ‘Olly, Olly, Oxen Free.’ Because the arrest is lawful, a search incident to the arrest is also lawful.” *Id.* at 521; *see also Johnson*, 383 F.3d at 544 (agreeing with defendant’s concession that once law enforcement identified defendant as a person known to the officer to have an outstanding arrest warrant, the officer had probable cause to arrest him independent of the circumstances of the initial stop). Like *Green*, the subsequent identification of Ms. Wisnasky as someone with an outstanding arrest warrant justified the stop and the search.

#### **B. The Warrantless Search of the Entire Vehicle Was Authorized Under the Automobile Exception.**

“Although warrantless searches are generally *per se* unreasonable, they are subject to ‘a few specifically established and well-delineated exceptions.’” *United States v. Reedy*, 989 F.3d 548, 555 (7th Cir. 2021) (citing *Arizona v. Gant*, 556 U.S. 332, 338, 129 S. Ct. 1710 (2009)). One exception to warrantless searches applies when an occupant of the vehicle is arrested: “Police may search a vehicle incident to a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest.” *Gant*, 556 U.S. 332 at 351. Additionally, under the “automobile exception,” “[t]he police do not need a warrant to search a vehicle when they have probable cause to believe it contains evidence of criminal

activity.” *Edwards*, 769 F.3d at 514 (internal citations omitted). Probable cause is a low standard and exists when, “based on the known facts and circumstances, a reasonably prudent person would believe that contraband or evidence of a crime will be found in the place to be searched.” *United States v. Richards*, 719 F.3d 746, 754–55 (7th Cir. 2013) (citation omitted). A “fair probability of discovering contraband” is enough. *Id.* at 755.

Here, the area under the hood of the vehicle was certainly beyond Ms. Wisnasky’s reach. However, Ms. Wisnasky was arrested for possessing drugs and it was reasonable to believe the vehicle contained evidence of the offense of arrest. Moreover, the Court finds that the search was justified under the automobile exception because law enforcement had probable cause to believe the vehicle contained evidence of criminal activity. Ms. Wisnasky, a passenger in Hays’ vehicle, was arrested and found to be in possession of 2.9 grams of methamphetamine and a blue glass pipe used to smoke methamphetamine. Possession of these items—along with knowledge that the car had just been at a suspected drug target location, that Ms. Wisnasky was wanted on an outstanding warrant for drug possession, that Ms. Wisnasky had given a fake name, and that Hays had a criminal conviction for drug possession—gave officers probable cause to believe that a drug crime had been or was being committed and that evidence of the criminal activity would be in the vehicle.

Moreover, law enforcement was authorized to search the entire car for evidence of the crime because there was probable cause to believe that evidence of the drug crime could be found anywhere in the car.

*See, e.g., United States v. Johnson*, 383 F.3d 538, 545–46 (7th Cir. 2004) (law enforcement officer’s “discovery of a banned substance (drugs) on Johnson’s person clearly provided him with probable cause to search the trunk of the vehicle, including any containers (i.e., the briefcase) therein, since the officer had a reasonable basis for believing that more drugs or other illegal contraband may have been concealed inside.”); *United States v. Ross*, 456 U.S. 798, 825, 102 S. Ct. 2157, 2173 (1982) (“We hold that the scope of the warrantless search authorized by [the automobile] exception is no broader and no narrower than a magistrate could legitimately authorize by warrant. 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.”). The Court also notes that Officer Wheeler’s report states that a screw driver was found during the search of the passenger compartment. Alone, the presence of the screw driver would not have provided any probable cause for a search. But, combined with the evidence of criminal activity that the officers already had, the presence of a screw driver in the passenger compartment further bolstered law enforcement’s probable cause to search under the hood of the vehicle. This is because it gave them further reason to believe that evidence of a drug crime may be hidden not just within the passenger compartment, but also under the hood of the car in a place only accessible by using a screw driver. Finally, Hays does not dispute that once officers discovered additional methamphetamine under the hood of the vehicle, they had probable cause to arrest Hays, the driver. *See, e.g., Maryland v. Pringle*, 540 U.S. 366, 373 (2003).

Hays' motion argues he was *de facto* arrested during the search of the car and that the search cannot be justified as a search incident to his *de facto* arrest because the officers did not have reason to believe that the vehicle contained evidence of his alleged traffic violations. While it may be true that searching the car for evidence of the traffic violations would not have been lawful, this argument is also irrelevant in light of the probable cause to search the car for evidence of criminal activity relating to drug crimes. Similarly, Hays' argument that the traffic stop was unreasonably prolonged ignores the intervening events—including the outstanding arrest warrant for Ms. Wisnasky and the discovery of drugs in his passenger's possession—that justified extending the stop and conducting the search. *See also, United States v. Walden*, 146 F.3d 487, 490 (7th Cir. 1998) (holding that officers were justified in prolonging the traffic stop to investigate illegal activity other than that activity for which the car was stopped when they had “reasonable suspicion that the occupants of [the] vehicle [were] engaged in other illegal activity”). And, even if law enforcement was not justified in detaining Hays during the search of the car, nothing was found on Hays' person or as a result of his detention prior to his later lawful arrest upon finding the methamphetamine in the air filter of his vehicle. Accordingly, the Court finds that the warrantless search of the car was permissible under the automobile exception. Therefore, the evidence obtained as a result of the search is admissible.

**C. Hays' Request for an Evidentiary Hearing is Denied.**

“A defendant who requests a suppression hearing must present definite, specific, detailed, and

nonconjectural facts . . . demonstrating that there is a disputed material issue of fact.” *United States v. Clark*, 935 F.3d 558, 568 (7th Cir. 2019) (internal citations omitted). “Reliance on vague, conclusory allegations is insufficient.” *Id.* The facts in this matter are largely uncontested. Hays only raises vague allegations regarding whether the initial traffic stop was justified. Further, as explained above, the search of the vehicle was lawful due to intervening circumstances even if Hays had not committed any traffic violations. Accordingly, the Court finds that no material disputed issues of fact exist and the request for an evidentiary hearing is denied.

### **III. CONCLUSION**

For the reasons above, Defendant Charles Hays’ Motion to Suppress (d/e 33) is DENIED.

**ENTERED: September 8, 2021.**

**FOR THE COURT:**

s/ Sue E. Myerscough  
SUE E. MYERSCOUGH  
UNITED STATES DISTRICT  
JUDGE

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## APPENDIX C

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FILED  
DEC 16 2022  
CLERK OF THE COURT  
U.S. DISTRICT COURT  
CENTRAL DISTRICT OF  
ILLINOIS

AO 245B (Rev. 09/17) Judgment in a Criminal  
Case  
Sheet 1

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UNITED STATES DISTRICT COURT

Central District of Illinois

UNITED STATES OF ) JUDGMENT IN A  
AMERICA ) CRIMINAL CASE  
 )  
 v. ) Case Number: 20-30021-  
 ) 001  
CHARLES R. HAYS ) USM Number: 23059-026

Nathan A. Frisch  
Defendant's Attorney

**THE DEFENDANT:**

pleaded guilty to count(s) 1, 2, and 3 \_\_\_\_\_

pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Court</u>
21 USC §§ 841(a)(1) and 841(b)(1)(A)(viii)	Possession of 50 Grams or More of Methamphetamine with the Intent to Distribute	10/15/2019	1
21 USC §§ 841(a)(1) and 841(b)(1)(B)(viii)	Possession of 5 or More Grams of Methamphetamine with the Intent to Distribute	11/27/2019	2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) \_\_\_\_\_

Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

23a

12/14/2022

Date of Imposition of  
Judgment

s/ Sue E. Myerscough

Signature of Judge

SUE E. MYERSCOUGH,  
U.S. District Judge

Name and Title of Judge

12/16/22

Date

AO 245B (Rev. 09/17) Judgment in a Criminal  
Case  
Sheet 1A

Judgment—Page 2 of 7

DEFENDANT: CHARLES R. HAYS

CASE NUMBER: 20-30021-001

## ADDITIONAL COUNTS OF CONVICTION

AO 245B (Rev. 09/17) Judgment in Criminal Case  
Sheet 2 — Imprisonment

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Judgment—Page 3 of 7

DEFENDANT: CHARLES R. HAYS

CASE NUMBER: 20-30021-001

**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

180 months. This term consists of 120 months on Count 1 and 60 months on Count 2, to run concurrently, and 60 months on Count 3, to run consecutively to the sentence imposed in Counts 1 and

2.

The court makes the following recommendations to the Bureau of Prisons:

1. That the defendant serve his sentence at FCI Greenville, IL, or otherwise in a facility as close to Taylorville, IL, as possible.
2. That the defendant serve his sentence in a facility that will allow him to participate in the Residential Drug Abuse Program (RDAP) and that will maximize his exposure to educational and vocational opportunities.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on

\_\_\_\_\_.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on \_\_\_\_\_.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant \_\_\_\_\_ delivered \_\_\_\_\_ on \_\_\_\_\_  
to \_\_\_\_\_ at \_\_\_\_\_, with a certified  
copy of this judgment.

\_\_\_\_\_  
**UNITED STATES  
MARSHAL**

27a

By

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DEPUTY  
UNITED STATES  
MARSHAL

AO 245B (Rev. 09/17) Judgment in a Criminal  
Case  
Sheet 3 — Supervised Release

Judgment—Page 4 of 7

DEFENDANT: CHARLES R. HAYS

CASE NUMBER: 20-30021-001

**SUPERVISED RELEASE**

Upon release from imprisonment, you will be on supervised release for a term of:

5 years on each of Counts 1, 2, and 3, to run concurrently.

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse.

*(check if applicable)*

4.  You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5.  You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6.  You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7.  You must participate in an approved program for domestic violence. *(check if applicable)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the following conditions:

1. The defendant shall not knowingly leave the federal judicial district in which he is approved to reside without the permission of the Court.
2. The defendant shall report to the probation office in the district to which he is released within 72 hours of release from custody. He shall report to the probation officer in a reasonable manner and frequency as directed by the Court or probation officer.

3. The defendant shall follow the instructions of the probation officer as they relate to his conditions of supervision. He shall answer truthfully the questions of the probation officer as they relate to his conditions of supervision, subject to his right against self-incrimination.
4. The defendant shall notify the probation officer at least ten days prior to, or as soon as he knows about, any changes in residence or any time he leaves a job or accepts a job.
5. The defendant shall permit a probation officer to visit him at home between the hours of 6:00 a.m. and 11:00 p.m., at his place of employment while he is working, or at the locations of his court-ordered treatment providers. Visits may be conducted at any time if the probation officer has reasonable suspicion to believe that the defendant is in violation of a condition of supervised release or if he or a third party has reported that he is unable to comply with a directive of the probation officer because of illness or emergency. During any such visit the defendant shall permit confiscation of any contraband observed in plain view of the probation officer.

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Sheet 3A — Supervised Release

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**ADDITIONAL SUPERVISED RELEASE TERMS**

6. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer. This condition does not prevent him from invoking his Fifth Amendment right against self-incrimination.

7. The defendant shall not knowingly meet, communicate, or otherwise interact with any person whom he knows to be a convicted felon or to be engaged in, or planning to engage in, criminal activity, unless granted permission to do so by the Court.

8. The defendant shall not knowingly possess a firearm, ammunition, or destructive device as defined in 18 U.S.C. § 921(a)(4) or any object that he intends to use as a dangerous weapon as defined in 18 U.S.C. § 930(g)(2).

9. The defendant shall not knowingly be present at places where he knows controlled substances are illegally sold, used, distributed, or administered.

10. The defendant shall not purchase, possess, use, distribute, or administer any controlled substance or psychoactive substance that impairs physical or mental functioning, including street, synthetic or designer drugs, or any paraphernalia related to any controlled substance or psychoactive substance, except as prescribed by a physician. He shall, at the direction

of the U.S. Probation Office, participate in a program for substance abuse treatment including not more than six tests per month to determine whether he has used controlled or psychoactive substances. He shall abide by the rules of the treatment provider. The defendant shall pay for these services, to the extent he is financially able to pay. The U.S. Probation Office shall determine the defendant's ability to pay and any schedule for payment, subject to the Court's review upon request. The defendant shall not be deemed financially able to pay if, at the time he begins receiving substance abuse treatment, he would qualify for Court-appointed counsel under the Criminal Justice Act.

11. The defendant shall refrain from excessive use of alcohol, as defined as the legal limit of impairment in the state in which he is located.

**U.S. Probation Office Use Only** A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's

Signature

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Date

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AO 245B (Rev. 09/17) Judgment in a Criminal  
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Sheet 5 — Criminal Monetary  
Penalties

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DEFENDANT: CHARLES R. HAYS

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**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

<u>Assessment</u>	<u>JVTA</u>	<u>Fine</u>	<u>Restitution</u>
<u>Assessment*</u>			
<b>TOTALS</b>	\$ 300.00	\$	\$0.00 \$ 0.00

- The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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[Redacted]

**TOTALS**      \$ 0.00  
                           \$ \_\_\_\_\_

- Restitution amount ordered pursuant to plea agreement  
\$ \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
  - the interest requirement is waived for the  fine     restitution.
  - the interest requirement for the  fine     restitution is modified as follows:

\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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## Case

## Sheet 6 — Schedule of Payments

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DEFENDANT: CHARLES R. HAYS

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**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A  Lump sum payment of \$ 300.00 due immediately, balance due

not later than \_\_\_\_\_, or

in accordance with  C,  D,  E, or  F below; or

B  Payment to begin immediately (may be combined with  C,  D, or  F below); or

C  Payment in equal \_\_\_\_\_ (*e.g., weekly, monthly, quarterly*) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (*e.g., months or years*), to commence \_\_\_\_\_ (*e.g., 30 or 60 days*) after the date of this judgment; or

D  Payment in equal \_\_\_\_\_ (*e.g., weekly, monthly, quarterly*) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (*e.g., months or years*), to commence \_\_\_\_\_ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; or

- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (eg., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several  
Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.