

APPENDIX

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APPENDIX A

#30448-a-SRJ
2024 S.D. 62

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

STATE OF SOUTH Plaintiff and Appellee,
DAKOTA,

v.

WANDA L. EDWARDS, Defendant and
Appellant.

APPEAL FROM THE CIRCUIT COURT OF
THE FOURTH JUDICIAL CIRCUIT
MEADE COUNTY, SOUTH DAKOTA

THE HONORABLE JOHN FITZGERALD
Judge

CONOR DUFFY of
Duffy Law Firm
Rapid City, South Attorneys for defendant
Dakota and appellant.

2a

MARTY J. JACKLEY
Attorney General

ERIN E. HANDKE
Assistant Attorney
General
Pierre, South Dakota

Attorneys for plaintiff
and appellee.

CONSIDERED ON BRIEFS
APRIL 23, 2024
OPINION FILED **10/16/24**

JENSEN, Chief Justice

[¶1.] A Sturgis police officer initiated a traffic stop after observing a vehicle being driven without an illuminated headlamp. The driver was arrested after law enforcement found methamphetamine and drug paraphernalia on his person. Wanda Edwards, a passenger, was then asked to step out of the vehicle so they could conduct a search of the vehicle and its contents. Edwards refused to turn over her purse that was with her inside the vehicle. Law enforcement forcibly took Edwards' purse, searched it, and found a small amount of methamphetamine and drug paraphernalia. Edwards moved to suppress the contraband found in her purse. Edwards' motion was denied, and she was found guilty of possession of a controlled substance, possession of marijuana, and obstructing a law enforcement officer. Edwards appeals the denial of her suppression motion. We affirm.

Factual and Procedural Background

[¶2.] On November 4, 2022, Sergeant Jameson Tebben of the Sturgis Police Department was on patrol in Sturgis. At approximately 7:46 p.m., Sergeant Tebben observed a sedan traveling eastbound on Lazelle Street with a headlamp that was not illuminated and initiated a traffic stop.

[¶3.] The driver of the vehicle informed Sergeant Tebben that he did not have his driver's license with him. The front seat passenger was able to provide her driver's license and identified herself as Wanda Edwards. Edwards indicated that she was the owner of the vehicle and provided Sergeant Tebben with her vehicle registration. She was unable to provide proof of insurance.

[¶4.] Sergeant Tebben brought the driver to his patrol vehicle for further questioning. The driver identified himself as Alexander Pearman but was unable to provide his address or social security number. During their conversation, Sergeant Tebben detected the odor of alcohol on the driver and performed a field sobriety test. After conducting the field sobriety test, Sergeant Tebben placed the driver inside of his patrol vehicle and returned to Edwards who was still sitting inside her vehicle. He asked Edwards what the driver's name was, and she informed him that the driver's name was "Marcus G." The driver, however, continued to state that his name was Alexander.

[¶5.] Because Sergeant Tebben was unable to confirm the driver's identity, he asked the driver to step out of the patrol vehicle and placed him in handcuffs. As the driver was placing his hands behind his back, he plunged his left hand into his front left pocket, which prompted Sergeant Tebben to conduct a pat down search of the driver. Sergeant Tebben discovered an orange hypodermic needle cap, two hypodermic needles, and a jewelry bag with a white crystal-like residue on the driver's person. The needles and jewelry bag contained substances that presumptively tested positive for methamphetamine. As a result, the driver was placed under arrest for false impersonation, possession of a controlled substance, and drug paraphernalia.

[¶6.] By this time, Meade County Deputy Sheriff Nicolis Forbes and Sturgis Police Officer Richard St. Peter arrived on the scene to assist. Sergeant Tebben informed the officers that Edwards was still inside the vehicle and asked the officers to perform a preliminary breath test (PBT) on Edwards to determine if she

was able to drive home. He also asked the officers to conduct a search of Edwards' vehicle.

[¶7.] Deputy Forbes approached Edwards and asked her to step out of the vehicle. At this time, Edwards was still seated in the passenger seat with her purse on her lap. As Edwards exited the vehicle, she took her purse from her lap and placed it over her shoulder. Officer St. Peter instructed Edwards to turn her purse over to Deputy Forbes. Edwards declined and stated, "I'm going to hold onto my purse." Deputy Forbes informed Edwards that he was "going to take [the purse] and search it." Edwards responded that Deputy Forbes needed a warrant to search the purse.

[¶8.] Officer St. Peter attempted to take the purse from Edwards, but she resisted. Edwards repeatedly claimed that the officers needed a warrant to search her purse and requested to speak with Sergeant Tebben. Sergeant Tebben confirmed that they were going to search the vehicle and Edwards' purse. Edwards continued to hold onto her purse despite being placed under arrest. Deputy Forbes was eventually able to forcibly remove the purse from Edwards and placed her into a patrol vehicle.

[¶9.] Deputy Forbes conducted a search of Edwards' purse and found two hypodermic needles, a small mirror with a white crystalline substance on it, and a bullet-shaped keychain that contained a marijuana cigarette. The needle and powder presumptively tested positive for methamphetamine.

[¶10.] Edwards was arrested and later indicted for possession of a controlled substance; possession of marijuana, two ounces or less; obstructing a law enforcement officer; and possession of drug paraphernalia. The State also filed a part II habitual

offender information alleging that Edwards had been convicted of a prior felony.

[¶11.] Edwards moved to suppress the evidence obtained during the stop, arguing that law enforcement lacked probable cause to search her purse. At the suppression hearing, the court heard testimony from Sergeant Tebben, Deputy Forbes, and Officer St. Peter, and received recordings from the officers' body cameras.

[¶12.] The court denied Edwards' motion to suppress, reasoning that law enforcement was authorized to search the vehicle and its contents incident to the driver's arrest. Upon the arrest of the driver, the court concluded that law enforcement could search any container inside the vehicle and Edwards' attempt to remove her purse from the vehicle did not defeat the fact that it was a container inside the vehicle at the time of the arrest.

[¶13.] Prior to trial, the State dismissed the charge for possession of marijuana and the part II information. At a bench trial, Edwards was found guilty of possession of a controlled substance, obstructing a law enforcement officer, and possession of drug paraphernalia. Edwards appeals her convictions arguing that her Fourth Amendment right against unreasonable searches was violated when law enforcement conducted a warrantless search of her purse.

Standard of Review

[¶14.] "Our standard of review for suppression motions is well established." *State v. Rosa*, 2022 S.D. 76, ¶ 12, 983 N.W.2d 562, 566 (quoting *State v. Mousseaux*, 2020 S.D. 35, ¶ 10, 945 N.W.2d 548, 551). "We review the denial of a motion to suppress based on the alleged violation of a constitutionally protected

right as a question of law by applying the de novo standard of review.” *Id.* (quoting *State v. Rolfe*, 2018 S.D. 86, ¶ 10, 921 N.W.2d 706, 709). “[A]s a general matter[,] determinations of reasonable suspicion and probable cause should be reviewed de novo on appeal.” *Id.* (quoting *State v. Wilson*, 2004 S.D. 33, ¶ 8, 678 N.W.2d 176, 180). However, “[w]e review any underlying factual findings of the circuit court ‘under the clearly erroneous standard.’” *State v. Red Cloud*, 2022 S.D. 17, ¶ 21, 972 N.W.2d 517, 525–26 (quoting *State v. Doap Deng Chuol*, 2014 S.D. 33, ¶ 19, 849 N.W.2d 255, 261).

Analysis and Decision

[¶15.] Edwards concedes that law enforcement was authorized to search her vehicle after they found methamphetamine and drug paraphernalia on the driver’s person. However, she cites *United States v. Di Re*, 332 U.S. 581, 68 S. Ct. 222, 92 L. Ed. 210 (1948), and argues that “probable cause to search a vehicle does not extend to the person of a passenger inside that vehicle.” She highlights that Officer St. Peter acknowledged that he and the responding officers did not have any probable cause to believe that Edwards was in possession of illegal contraband at the time her purse was searched. Edwards attempts to distinguish this Court’s decision in *State v. Steele*, 2000 S.D. 78, 613 N.W.2d 825, and the United States Supreme Court’s decision in *Wyoming v. Houghton*, 526 U.S. 295, 119 S. Ct. 1297, 143 L. Ed. 2d 408 (1999), by asserting that her purse was intimately connected to her person because she held it on her lap or over her shoulder at all times during her encounter with law enforcement. Based on this fact, she asserts that her purse “is more analogous to a pocket attached [to her]

outer clothing than a container resting elsewhere in the vehicle.”¹

[¶16.] The State argues that law enforcement was authorized to search Edwards’ vehicle both as a search incident to a lawful arrest and because there was probable cause to believe that criminal activity was present inside the vehicle based upon the drug residue and paraphernalia found on the driver’s person. The State relies on *Steele*, 2000 S.D. 78, ¶ 5, 613 N.W.2d at 826, which held that when an officer lawfully arrests an occupant of a vehicle, the officer may “as a contemporaneous incident of that arrest, search the passenger compartment of that automobile,” including “the contents of any containers found within the passenger compartment[.]”

[¶17.] The State, citing *Houghton*, 526 U.S. at 302, 119 S. Ct. at 1301, also argues that once probable cause exists to search a motor vehicle for contraband, law enforcement is authorized to search the vehicle and its contents, including the personal belongings of the driver and passenger. From the State’s perspective, allowing “a passenger to remove a container from the vehicle and claim it is part of their person, defeats the purpose of warrantless searches” because it would create an unworkable standard for law enforcement to determine what is searchable, leading to extensive litigation and suppression motions. The State contends that the cases from other jurisdictions relied upon by

¹ Edwards cites decisions from other state courts concluding that a purse physically attached to an individual is entitled to an increased expectation of privacy, much like outer clothing. See *Idaho v. Newsom*, 979 P.2d 100 (Idaho 1998); *Iowa v. Campbell*, 908 N.W.2d 539 (Iowa Ct. App. 2017); *Kansas v. Boyd*, 64 P.3d 419 (Kan. 2003).

Edwards are inapposite to the current case because they involve instances where officers lacked probable cause to search the vehicle or confiscated a passenger's purse before they had probable cause to search the vehicle in which it was found. *See Kansas v. Boyd*, 64 P.3d 419, 427 (Kan. 2003) (distinguishing *Houghton*); *Iowa v. Campbell*, 908 N.W.2d 539 (Iowa Ct. App. 2017) (same).

[¶18.] The Fourth Amendment of the United States Constitution and Article VI, § 11 of our State Constitution protect “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”² Thus, “warrantless searches are unreasonable and therefore unconstitutional unless the search falls into one of the limited exceptions.” *Steele*, 2000 S.D. 78, ¶ 5, 613 N.W.2d at 826 (citing *State v. Meyer*, 1998 S.D. 122, ¶¶ 21–27, 587 N.W.2d 719, 723–24).

[¶19.] The United States Supreme Court has recognized an exception to the warrant requirement where “contraband goods concealed and illegally transported in an automobile or other vehicle may be searched for without a warrant’ where probable cause exists.” *Houghton*, 526 U.S. at 300, 119 S. Ct. at 1301 (quotation omitted). “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.” *U.S. v.*

² Edwards challenges the search of her purse under the South Dakota Constitution and the Fourth Amendment of the United States Constitution, but does not argue that Art. VI, § 11 of the South Dakota Constitution provides greater protection than afforded by the Fourth Amendment of the United States Constitution.

Ross, 456 U.S. 798, 825, 102 S. Ct. 2157, 2173, 72 L. Ed. 2d 572 (1982). Thus, when a police officer has probable cause to search a vehicle, they “may inspect passengers’ belongings found in the car that are capable of concealing the object of the search.” *Houghton*, 526 U.S. at 307, 119 S. Ct. at 1304. However, probable cause to search a vehicle and its containers does “not justify a body search of a passenger.” *Id.* at 303, 119 S. Ct. at 1302 (citing *Di Re*, 332 U.S. 581, 68 S. Ct. 222).

[¶20.] Edwards does not challenge the determination that once law enforcement found contraband on the driver’s person, they also had probable cause to search the vehicle and its containers. Edwards’ sole contention is that her purse was intimately connected to her person and not subject to search.

[¶21.] In *Houghton*, the driver of a vehicle was arrested after he admitted that a hypodermic needle found in his pocket was used to inject methamphetamine. *Id.* at 298, 119 S. Ct. at 1300. The defendant, a passenger in the vehicle, was removed to conduct a search of the vehicle. *Id.* Law enforcement searched the defendant’s purse discovered inside the vehicle and found drug paraphernalia inside the purse. *Id.* *Houghton* concluded that the search of the passenger’s purse was constitutional and “that such a package may be searched, whether or not its owner is present as a passenger or otherwise, because it may contain the contraband that the officer has reason to believe is in the car.” *Id.* at 307, 119 S. Ct. at 1304. Relying on *Ross*, the Court stated, “[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.” *Id.* at 301, 119

S. Ct. at 1301 (quoting *Ross*, 456 U.S. at 825, 102 S. Ct. at 2173) (emphasis added). Further, “our later cases describing *Ross* have characterized it as applying broadly to *all* containers within a car, without qualification as to ownership.” *Id.*

[¶22.] *Houghton* also reasoned that “[p]assengers, no less than drivers, possess a reduced expectation of privacy with regard to the property that they transport in cars, which ‘trave[l] public throughfares,’ ‘seldom serv[e] as . . . the repository of personals effects,’ are subjected to police stop and examination to enforce ‘pervasive’ government controls ‘[a]s an everyday occurrence,’ and, finally, are exposed to traffic accidents that may render all their contents open to public scrutiny.” *Id.* at 303, 119 S. Ct. at 1302 (alterations in original) (internal citations and quotations omitted). In addition, the Court stated that during a traffic stop, a passenger’s privacy interests are “considerably diminished, [whereas] the governmental interests at stake are substantial. Effective law enforcement would be appreciably impaired without the ability to search a passenger’s belongings . . . [because a] criminal might be able to hide contraband in a passenger’s belongings as readily as in other containers in the car[.]” *Id.* at 304, 119 S. Ct. at 1302 (citations omitted).³ “A passenger’s personal belongings, just

³ In a concurring opinion, Justice Breyer wrote that “[p]urses are special containers. They are repositories of especially personal items that people generally like to keep with them at all times.” *Houghton*, 526 U.S. at 308, 119 S. Ct. at 1304 (Breyer, J., concurring). Based on this special relationship, Justice Breyer was “tempted to say that . . . if a woman’s purse, like a man’s billfold, were attached to her person . . .” that it “might then amount to a kind

(continued . . .)

like the driver’s belongings or containers attached to the car like a glove compartment, are ‘in’ the car, and the officer has probable cause to search for contraband *in* the car.” *Id.* at 302, 119 S. Ct. at 1301 (citing *Ross*, 456 U.S. at 824, 102 S. Ct. at 2173).

[¶23.] The State also cites *Steele* as an alternative basis to authorize the search of the vehicle and Edwards’ purse, as a search incident to arrest. It is unnecessary to consider *Steele* to justify the search of the vehicle because there is no dispute that the officers had probable cause to search the vehicle in this instance.⁴ However, *Steele* is instructive on the issue

(... continued)

of ‘outer clothing,’ which under the Court’s cases would properly receive increased protection.” *Id.* (citation omitted). However, the United States Supreme Court has never adopted Justice Breyer’s view, and this Court has rejected such a view, because it would blur the bright-line rule regarding searches of passenger’s belongings and ignores the reality that passengers are often involved in the same activity as the driver and can easily hide incriminating evidence in their personal belongings that are on or near their person. See *Steele*, 2000 S.D. 78, ¶¶ 11–18, 613 N.W.2d at 828–30.

⁴ The defendant in *Steele* was arrested on a probation violation and law enforcement subsequently searched the vehicle incident to the arrest. Like the case before us, the defendant passenger in *Steele* only challenged the search of her purse. She did not challenge the search of vehicle as a valid search incident to arrest. This reflected the widely accepted view, at the time, from *New York v. Belton* that an arrest automatically authorized a warrantless vehicle search incident to arrest to include “any object capable of holding another object,” as well as “boxes, bags, clothing, and the like.” *Id.* ¶ 6, 613 N.W.2d at 827 (quoting *New York v. Belton*, 453 U.S. 454, 460–61 n.4, 101 S. Ct. 2860, 2864 n.4, 69 L. Ed. 2d 768 (1981)). But in 2009, the United States Supreme Court clarified the *Belton* rule in *Arizona v. Gant*, 556 U.S. 332, 335, 129 S. Ct. 1710, 1714, 173 L. Ed. 2d 485 (2009). The

before us, that being the specific authority to search Edwards' purse in connection with an otherwise valid warrantless search.

[¶24.] On this question, *Steele*, like *Houghton*, correctly balanced the privacy claims associated with a person's purse with the need for a bright-line rule in cases where a warrantless search of a vehicle's passenger compartment is authorized. Requiring officers to determine whether a purse is sufficiently attached to an individual so that it is deserving of a heightened expectation of privacy would blur an established bright-line rule and would lead to the "seemingly inconsistent rulings caused by fact-driven analys[es]" that *Belton* and *Houghton* sought to eliminate. *Id.* ¶ 7, 613 N.W.2d at 827 (citation omitted). See *Belton*, 453 U.S. at 460, 101 S. Ct. at 2864.

[¶25.] The heightened interests of law enforcement to search a vehicle and its contents, based upon probable cause that contraband is in the vehicle, outweigh Edwards' diminished expectation of privacy in her personal belongings that she brought into the vehicle. See *Houghton*, 526 U.S. at 303, 119 S. Ct. at 1302 ("Passengers, no less than drivers, possess a reduced expectation of privacy with regard to the property that they transport in cars[.]"). For these reasons, Edwards' purse was not entitled to a heightened expectation of privacy and was subject to the same

Supreme Court held "that *Belton* does not authorize a vehicle search incident to a recent occupant's arrest after the arrestee has been secured and cannot access the interior of the vehicle." *Id.* Instead, *Gant* held that the "circumstances unique to the vehicle context justify a search incident to a lawful arrest when it is 'reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.'" *Id.* at 343, 129 S. Ct. at 1719 (citation omitted).

search conditions as any other container found inside of the vehicle that was capable of concealing contraband.

[¶26.] We affirm.

[¶27.] KERN, SALTER, and DEVANEY, Justices, concur.

[¶28.] MYREN, Justice, dissents.

MYREN, Justice (dissenting)

[¶29.] I agree that law enforcement was entitled to search the vehicle, given the drugs found on Pearman. Although the scope of a vehicle search includes passengers' belongings found in the car, it does "*not justify a body search of a passenger.*" *Wyoming v. Houghton*, 526 U.S. 295, 303, 119 S. Ct. 1297, 1302, 143 L. Ed. 2d 408 (1999) (citing *U.S. v. Di Re*, 332 U.S. 581, 68 S. Ct. 222, 92 L. Ed. 210 (1948) (emphasis added)).

[¶30.] In *Houghton*, the passenger's purse was found on the backseat of the vehicle. 526 U.S. at 298, 119 S. Ct. at 1299. In contrast, Edwards had her purse on her lap when the car was stopped. Edwards kept the purse in her possession at all times. When asked to exit the vehicle, she took it from her lap and put it on her shoulder. When law enforcement told her they were going to search her purse, she denied consent and asserted they were not authorized to search the purse without a warrant. Law enforcement articulated no reason to believe her purse contained illegal drugs other than the fact that she was in the same car that Pearman had occupied. The majority opinion notes the "reality" that passengers are often involved in the same activity as the driver. In response, I note the reality that passengers are often NOT involved in the same activity as the driver.

[¶31.] I fully understand that it would be more convenient for law enforcement if they are allowed to search everything whenever they stop a vehicle. However, the convenience of law enforcement should not eliminate Edwards' right to be free from unreasonable searches and seizures as guaranteed by the Fourth Amendment. What makes this search unreasonable is

that law enforcement had no probable cause to believe Edwards was engaged in criminal activity. Because she always maintained possession of her purse, this is not a circumstance where a “criminal might be able to hide contraband in a passenger’s belongings as readily as in other containers in the car.” *Id.* at 296, 119 S. Ct. at 1299 (citing *Rawlings v. Kentucky*, 448 U.S. 98, 102, 100 S. Ct. 2556, 65 L. Ed. 2d 633 (1980)).

[¶32.] My view is consistent with Justice Breyer’s approach in *Houghton*. “Purses are special containers. They are repositories of especially personal items that people generally like to keep with them at all times.” *Id.* at 308, 119 S. Ct. at 1304 (Breyer, J., concurring). Edwards clearly viewed her purse in that way, as evidenced by the fact that she always kept it in her possession. Because law enforcement was not allowed to search her person and she always maintained direct control and possession of her purse, I would hold that law enforcement was not authorized to search her purse. For these reasons, I dissent.

APPENDIX B

STATE OF SOUTH	)	IN CIRCUIT
DAKOTA	) ss.	COURT
COUNTY OF MEADE	)	FOURTH
		JUDICIAL
STATE OF SOUTH		CIRCUIT
DAKOTA,		COURT NO.
Plaintiff,		46CRI22-001154
vs.		JUDGMENT OF
WANDA L EDWARDS,		CONVICTION
Defendant.		

DOB: 05/09/1971

SPD 22-7499

An Indictment was filed with this Court on the 14th day of November, 2022, charging that on November 4, 2022 the Defendant committed the crime(s) of: COUNT I: UNAUTHORIZED POSSESSION OF CONTROLLED DRUG OR SUBSTANCE (SDCL 22-42-5); COUNT II: POSSESSION OF MARIJUANA - 2 OUNCES OR LESS (SDCL 22-42-6); AND COUNT III: OBSTRUCTING LAW ENFORCEMENT OFFICER (SDCL 22-11-6). A Part II Information for Habitual Offender was filed on November 15, 2023, alleging one (1) previous felony conviction.

The Defendant was arraigned and advised of the contents of said Indictment and Part II Information and received copies thereof in open Court at Sturgis, Meade County, South Dakota, on the 21st day of

December, 2022. The Defendant, Defendant's attorney, Conor Duffy; and Kay E Luther, Deputy State's Attorney, appeared at the Defendant's arraignment. The Defendant had been advised of all constitutional and statutory rights pertaining to the charge that had been filed against the Defendant, including but not limited to the right against self-incrimination, the right of confrontation, and the right to a jury trial. The Defendant pled not guilty to the charge(s) and denied the Part II Information for Habitual Offender.

On the 14th day of June, 2023, the Defendant, Defendant's attorney, Conor Duffy, and Kay E Luther, Deputy State's Attorney, appeared before the Honorable Judge John Fitzgerald for a Stipulated Trial to the Court. The Court received the Stipulation of the Parties and the Exhibits attached thereto that were entered into the record.

On the 23rd day of June, 2023, this Court filed the Findings and Verdict After a Court Trial. The Defendant was found guilty to the charge(s) of: COUNT I: UNAUTHORIZED POSSESSION OF CONTROLLED DRUG OR SUBSTANCE (SDCL 22-42-5), **a Class 5 Felony**; COUNT III: OBSTRUCTING LAW ENFORCEMENT OFFICER (SDCL 22-11-6), **a Class 1 Misdemeanor** and to the charge in the ticket COUNT IV: POSSESSION OF DRUG PARAPHERNALIA (SDCL 22-42A-3), **a Class 2 Misdemeanor**. The State dismissed the Part II Information and the remaining charges.

It is, therefore, the JUDGMENT of this Court that the Defendant is guilty of: COUNT I: UNAUTHORIZED POSSESSION OF CONTROLLED DRUG OR SUBSTANCE (SDCL 22-42-5), **a Class 5 Felony**;

COUNT III: OBSTRUCTING LAW ENFORCEMENT OFFICER (SDCL 22-11-6), **a Class 1 Misdemeanor**; and COUNT IV: POSSESSION OF DRUG PARAPHERNALIA (SDCL 22-42A-3), **a Class 2 Misdemeanor**.

SENTENCE

On the 23rd day of August, 2023, a sentencing hearing was scheduled before the Honorable John Fitzgerald. The Defendant appeared personally and through counsel, Conor Duffy, and Kay E Luther, Deputy State's Attorney, appeared on behalf of the State. The Court asked the Defendant whether any legal cause existed to show why Judgment should not be pronounced. There being no cause offered, the Court thereupon pronounced the following sentence, and it is hereby:

As to COUNT I, the charge of UNAUTHORIZED POSSESSION OF CONTROLLED DRUG OR SUBSTANCE, it is hereby;

ORDERED that the Defendant is sentenced to a term of **thirty (30) months** in the South Dakota State Women's Prison there to be fed, clothed, maintained, and provided the necessities of life; and it is further

ORDERED that execution of the **thirty (30) months** in the South Dakota State Women's prison be suspended and Defendant placed on supervised probation for a period of **three (3) years** under the supervision of the Chief Court Services Officer of the Fourth Judicial Circuit, or his representative thereof, upon the following terms and conditions:

1. Defendant shall obey all federal, tribal, state laws and local ordinances;
2. Defendant shall obey all rules and regulations and any association limits as set forth by her Court Service Officer;
3. Defendant is subject to all standard terms and conditions of her supervised probation;
4. Defendant shall pay court costs in the amount of **\$116.50** to the Meade County Clerk of Courts, 1425 Sherman St., Sturgis, SD 57785;
5. Defendant shall pay to the Meade County Clerk of Courts (for reimbursements to the South Dakota Drug Control Fund, in c/o of Office of the Attorney General, 1302 E. Hwy. 14, Suite 2, Pierre, SD 57501) for the costs of urinalysis and/or testing and/or buy money in the amount of **\$120.00**;
6. Defendant shall pay court-appointed attorney's fees in the amount of **\$1,177.00** (for Conor Duffy) and previously ordered court-appointed attorney's fees in the amount of **\$3657.60** (for Duffy Law Firm) to the Meade County Auditor, 1300 Sherman St., Suite #126, Sturgis, SD 57785;
7. Defendant shall meet with the Meade County Auditors Office within (30) days of sentencing to set up a payment plan for her court-appointed attorney's fees;
8. Defendant shall serve **twenty (20) days** in the Meade County Jail;
9. Defendant shall serve the ordered jail sentence by December 31, 2023;

10. Defendant shall obtain a chemical dependency evaluation, abide by and follow the recommendations;
11. Defendant shall obtain a mental health evaluation, abide by and follow the recommendations, at the discretion of Court Services;
12. Defendant shall not possess, ingest, inhale, or otherwise take into the body any substance, including alcohol, for purposes of becoming intoxicated unless such substance is prescribed to her by a licensed health care provider;
13. Defendant shall be subject to warrantless search and seizure of her blood, breath, urine, and property, to include her vehicle and home at the request of any Law Enforcement Officer or her Court Services Officer;
14. Defendant shall maintain gainful employment to the extent possible;
15. Defendant shall participate in the 24/7 Program at her own expense to include twice (2) weekly UA's for one (1) year, and thereafter at the discretion Court Services;
16. Defendant shall take all prescription medications as prescribed and not abuse prescribed medications;

As to COUNT III, the charge of OBSTRUCTING LAW ENFORCEMENT OFFICER, it is hereby;

ORDERED that Defendant is sentenced to a term of **ten (10) days** in the Meade County Jail upon the following terms and conditions:

1. Defendant shall pay court costs in the amount of **\$96.50** to the Meade County Clerk of Courts, 1425 Sherman St., Sturgis, SD 57785;
2. Defendant shall serve **ten (10) days** in the Meade County Jail concurrent with Count I by December 31, 2023;

As to COUNT IV: the charge of POSSESSION OF DRUG PARAPHERNALIA, it is hereby:

ORDERED that Defendant shall pay court costs in the amount of **\$78.50** to the Meade County Clerk of Courts, 1425 Sherman St., Sturgis, SD 57785; and it is further

ORDERED that bond is hereby exonerated; and it is further

ORDERED that the Court expressly reserves control and jurisdiction over the Defendant for the period of sentence imposed and that this Court may revoke the suspension any time and reinstate the sentence without diminishment or credit for any of the time that the Defendant was on probation; and it is further

ORDERED that the Court reserves the right to amend any or all of the terms of this Order at any time; and it is further

NOTICE OF APPEAL

You, Wanda L Edwards, are hereby notified that you have a right to appeal as provided by SDCL 23A-32-15 and 23A-32-16 which you must exercise by filing a notice of appeal with the Meade County Clerk of Courts, and serving a copy of the same upon the Attorney General of the State of South Dakota and the Meade County State's Attorney and filing proof of such service, within thirty (30) days from the date that this Judgment is signed, attested and filed with said Clerk.

ORDERED that this Judgment of Conviction is effective as of the 23rd day of August, 2023.

8/25/2023 11:40:36 AM

BY THE COURT:


Hon. John Fitzgerald
4th Circuit Circuit Judge

Attest:
Jones, Jewel
Clerk/Deputy



APPENDIX C

STATE OF SOUTH	)	IN CIRCUIT
DAKOTA	SS	COURT
COUNTY OF MEADE	)	FOURTH
		JUDICIAL
		CIRCUIT

STATE OF SOUTH	)	46CRI22-1154
DAKOTA,)	
)	
Plaintiff,)	
	)	FINDINGS AND
vs	)	VERDICT AFTER
	)	COURT TRIAL
WANDA L. EDWARDS,)	
)	
Defendant.)	

On June 14th, 2023, a trial to the court was held in this action. The court now issues its finding in accordance with SDCL 23A -18-3. At trial the State appeared by Kay Luther Deputy State's Attorney for Meade County, the Defendant personally appeared along with her attorney Connor K. Duffy, of Rapid City South Dakota. The Defendant waived her right to a jury trial in writing, and the parties entered a written stipulation of facts consisting of six pages, exhibits, and a transcript of a motion hearing conducted on a prior occasion before the court.

FINDINGS

1. On November 4, 2022, a law enforcement officer in Sturgis, Meade county South Dakota met a vehicle driving without its headlights on during period when headlights were required to be on.
2. Sergeant Tebben of the Sturgis Police Department stopped the vehicle and contacted the male driver. Defendant was a front seat passenger in the vehicle.
3. After the driver's arrest, law enforcement over the defendant's verbal and physical objection searched a purse that the defendant had in her lap in the front seat of the vehicle.
4. The circumstances of the search and the reasons for it are described in the stipulation of facts which is incorporated herein by this reference.
5. Inside defendant's purse were items of drug paraphernalia, and a white powdery substance. Defendant has admitted by the stipulation that substance in her possession was methamphetamine. Defendant also admitted that other items found in her purse were drug paraphernalia.
6. In paragraph 31 of the stipulation the defendant stipulated that she did by her action committed the elements of the crime of Possession of a Controlled Substance namely, methamphetamine on November 4, 2022 in Meade County South Dakota. That crime is a Class 5 felony.
7. In paragraph 32 of the stipulation the defendant admits that by her actions committed the elements of the crime of Obstruction of a Law Enforcement Officer

on November 4, 2022, in Meade County South Dakota. That crime is a Class 1 misdemeanor.

8. In paragraph 33 of the stipulation the defendant admits that by her actions she committed the elements of the crime of Possession of Drug Paraphernalia on November 22, 2022, in Meade County South Dakota. That crime is a Class 2 misdemeanor.

9. The State has proved beyond a reasonable doubt that the defendant is guilty of the three charges set forth.

Now therefore based upon the foregoing findings it is the judgment and verdict of this court that the defendant is:

Guilty of the crime of Possession of a Controlled Substance.

Guilty of the crime Obstructing a Law Enforcement Officer.

Guilty of the crime of Possession of Drug Paraphilia.

ORDER FOLLOWING COURT TRIAL

It is further ORDERED

1. Defendant's bond and release terms shall continue in the same manner as it existed before the court trial.

2. This matter shall be set for sentencing.

27a

3. Court services shall conduct a presentence investigation of the defendant to be completed prior to sentencing.

Dated this 23 day of June 2023.

Attest:
Donovan, Kirsten
Clerk/Deputy



BY THE COURT:

A handwritten signature in black ink, appearing to read "John H. Fitzgerald".

John H. Fitzgerald
Circuit Court Judge

APPENDIX D

STATE OF SOUTH	)	IN CIRCUIT
DAKOTA	) SS.	COURT
COUNTY OF MEADE	)	FOURTH
STATE OF SOUTH	)	JUDICIAL
DAKOTA,	)	CIRCUIT
Plaintiff,	)	CRIMINAL FILE
vs.	)	NO. 46CRI22-1154
WANDA L EDWARDS,	)	FINDINGS OF
Defendant.	)	FACT AND
	)	CONCLUSIONS
	)	OF LAW
	)	REGARDING
	)	DEFENDANT'S
	)	MOTION TO
	)	SUPPRESS AND
	)	ORDER
)	
)	

Preliminary Statement

On November 4, 2022, Wanda L. Edwards (hereinafter "Defendant") was arrested for Unauthorized Possession of a Controlled Drug or Substance, in violation of SDCL 22-42-5, Obstructing a Law Enforcement Officer, in violation of SDCL 22-11-6, Resisting Arrest, in violation of SDCL 22-11-4, and Possession of Drug Paraphernalia, in violation of SDCL 22-42A-3. An Indictment was filed by the

Meade County Grand Jury on November 14, 2022, charging the Defendant with Unauthorized Possession of a Controlled Drug or Substance, Possession of Marijuana - 2 oz or less; and Obstructing Law Enforcement. On November 15, 2022, a Part II Information alleging one prior felony conviction was filed. Arraignment was held on the 21st of December 2022, before the Honorable Eric J. Strawn. The Defendant appeared with Counsel, Conor Duffy, and pled not guilty to the charges and entered a denial to the Part II Information.

On January 7, 2023, the Defendant filed a Motion to Suppress Evidence. On February 3, 2023, Judge John Fitzgerald presided over the hearing on the Defendant's Motion to Suppress Evidence. The State being represented by Kay Luther, Meade County Deputy States Attorney. The Defendant appearing in person and through counsel, Conor Duffy. The Court, having considered the evidence submitted by the parties, heard oral argument, having studied the applicable law, and in all other respects being fully informed in the premise, does hereby issue the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On November 4, 2022, Sergeant Jameson Tebben (hereinafter "Sgt. Tebben") was employed with Sturgis Police Department. MH 5:7-10. Sgt. Tebben graduated from the South Dakota Law Enforcement Training Academy in January 2017 and is a Certified Law Enforcement Officer. MH 4:6-10. Sgt. Tebben also served seven years in South Dakota National Guard as a Military Police Officer

and is a graduate of the Western Dakota Tech Law Enforcement program. MH 4:3-15.

2. On November 4, 2022, Deputy Nicolis Forbes (hereinafter “Deputy Forbes”) was employed at with the Meade County Sheriff’s Office. MH 24:7-10. Deputy Forbes graduated from the South Dakota Law Enforcement Training Academy in 2019 and is a Certified Law Enforcement Officer. MH 23:10-15. Prior to his employment with the Meade County Sheriff’s Office, Deputy Forbes was a Reserve Police Officer with the City of Sturgis from 2017-2018. MH 23:6-9.
3. On November 4, 2022, Officer Richard St. Peter (hereinafter “Officer St. Peter”) was employed with Sturgis Police Department. MH 35:12-15. Officer St. Peter graduated from the South Dakota Law Enforcement Training Academy in May of 2022 and is a Certified Law Enforcement Officer. MH 35:3-9. Officer St. Peter is also a graduate of the Western Dakota Tech Law Enforcement program. MH 35:6-9.
4. On November 4, 2022, at approximately 7:46 p.m., Sgt. Tebben of the Sturgis Police Department was on duty in his official capacity. MH 5:7-13. While on patrol the in the area of First Street and Lazelle Street, Sgt. Tebben observed a sedan traveling eastbound on Lazelle Street with a headlight that was not illuminated. MH 5:15-22. Sgt. Tebben initiated a traffic stop. MH 5:24. The vehicle came to a stop in the parking lot of Lynn’s Dakotamart. MH 6:3-4. Sgt. Tebben had maintained visual

contact with the vehicle from the time he observed it until it came to a stop. MH 6:5-7.

5. Sgt. Tebben approached the vehicle and made contact with the male driver, who was unable to provide a driver's license, and the female passenger, Wanda Edwards (hereinafter "Defendant"), who was identified by her South Dakota Driver's License. MH 6:8-16. Sgt. Tebben confirmed the Defendant was also the registered owner of the vehicle, and unable to provide proof of insurance. MH 9:14-18.
6. Sgt. Tebben asked the driver back to his patrol vehicle to in an attempt ascertain the driver's identity and confirm his license status. MH 7:12-16. The driver provided several names during his contact with Sgt. Tebben and was unable to provide his address or social security number. MH 7:25 - 8:2. Inside the patrol vehicle, Sgt. Tebben also detected the odor of an alcoholic beverage coming from the driver, who admitted consuming alcohol. MH 8:14-25. Sgt. Tebben then conducted a DUI investigation. MH 9:1-2.
7. Sgt. Tebben had still not been able to identify the driver and returned to the vehicle to speak with Defendant who had remained in the front passenger seat through the duration of the stop. MH 9:3-14. When asked about the identity of the driver, Defendant provided another first name and last initial. MH 9:11-14. Sgt. Tebben requested additional units respond to assist and returned to his patrol vehicle. MH 9:19-22. Sgt. Tebben asked the driver again to provide his real name but was unsuccessful.

MH 9:23-10:9. Sgt. Tebben asks the driver to step out of the vehicle. MH 10:12-13.

8. On November 4, 2022, at approximately 8:10 p.m., Deputy Forbes of the Meade County Sheriff's Office & Officer St. Peter were on duty in their official capacity when they were dispatched to the Lynn's Dakotamart parking lot to assist Sgt. Tebben. MH 24:7-21 & 35:12-21. When Deputy Forbes arrived, Sgt. Tebben was speaking with the male driver on the passenger side of his patrol vehicle, and Officer St. Peter arrived very shortly thereafter. MH 24:24 - 25:4 & 35:25 - 36:2.
9. When Sgt. Tebben advised the driver to put his hands behind his back, the driver plunged his hand into his left pocket. MH 10:12-17. Once the driver was placed in handcuffs, Sgt. Tebben began conducting a pat search of the driver. MH 10:19 - 11:7. As Sgt. Tebben removed what he believed was a shooter of alcohol he observed an orange cap to a hypodermic needle. MH 11:8-13. Sgt. Tebben also located a jewelry bag with white crystal-like residue and two hypodermic needles on the driver's person. MH 11:20 -12:1.
10. Sgt. Tebben advised the driver he was under arrest for false impersonation and possession of drug paraphernalia. MH 12:4-5. Deputy Forbes then conducted a field test on a hypodermic needle and the jeweler's bag, both were presumptive positive for methamphetamine. MH 12:7-14 & 25:16-24. While Deputy Forbes was in the process of conducting the field testing, Sgt. Tebben

advises Deputy Forbes and Officer St. Peter that the passenger, Defendant, was still in the vehicle. MH 13:1-14. (State's Exhibit 1 – 0:07:05). Officer St. Peter approached the vehicle and made contact with Defendant who was in the front passenger seat with her purse in her lap. MH 36:7-8 & 37:1-2. (State's Exhibit 1 – 0:08:15).

11. Sgt. Tebben asked Deputy Forbes to conduct a search of the vehicle. MH 13:18-20. Sgt. Tebben asked Officer St. Peter to obtain a PBT from the Defendant to determine if she would be able to drive the vehicle and directed him to assist Deputy Forbes in the search of the vehicle. MH 13:21 – 14:1 & 37:3-12.
12. Sgt. Tebben requested this search incident to and contemporaneously with the arrest of the driver. MH 14:3. Sgt. Tebben also had probable cause to believe the vehicle and containers therein may contain additional drug related evidence or the driver's license or identification of the driver. MH 14:3-9.
13. Deputy Forbes approached the front passenger side of the vehicle and asked Defendant to step out of the vehicle. MH 27:2-3. (State's Exhibit 1 – 0:10:29). Deputy Forbes testified that at this time, he observed the Defendant's purse in her lap. MH 26:23 – 27:1. Deputy Forbes also asked Defendant if she had anything on her or in her purse that would be considered a controlled substance, to which Defendant replied there was not. MH 27:4-14. (State's Exhibit 1 – 0:10:39). As Deputy Forbes and Officer St. Peter testified, Defendant can be

seen placing the strap of her purse over her arm and onto her shoulder as she exits the vehicle. MH 27:15-17 & 37:13-17. (State's Exhibit 1 – 0:10:45).

14. As Defendant exited the vehicle, Deputy Forbes observed an alcoholic beverage on the front passenger side floorboard where Defendant had been sitting. MH 27:18-21. (State's Exhibit 1 – 0:10:51. Officer St. Peter asked if she has been drinking and she confirms she has. (State's Exhibit 1 – 0:11:05). Officer St. Peter then asked Defendant if she is willing to provide a PBT and advised her to hand her purse to Deputy Forbes. MH 37:18-20. (State's Exhibit 1 – 0:11:09). Defendant says, "I'm going to hold onto my purse," and is advised by Deputy Forbes that he is going to search her purse. MH 37:21-23. (State's Exhibit 1 – 0:11:16).
15. Defendant responds, "You get a warrant for my purse." (State's Exhibit 1 – 0:11:22). Officer St. Peter advised Defendant a warrant is not required. (State's Exhibit 1 – 0:11:23). Deputy Forbes also attempted to explain that a warrant is not required for a search of the vehicle and compartments of the vehicle including the Defendant's purse. (State's Exhibit 1 – 0:11:43). Defendant requested a Sergeant and pulled away from Officer St. Peter as he attempted to remove her purse from her person even after being advised she could be charged with Obstruction. MH 37:24 - 38:5. (State's Exhibit 1 – 0:11:26). Deputy Forbes advises Sgt. Tebben over the radio that

Defendant has requested a supervisor. MH 14:12-14 & 28:17-18. (State's Exhibit 1 – 0:12:36).

16. Sgt. Tebben exited his patrol vehicle to speak with Defendant. MH 14:20-21. As he approaches, Sgt. Tebben observed Defendant had a hold of her purse, as did Officer St. Peter. MH 14:21-23. Defendant says, "My right is you can't search my purse without a search warrant." MH 15:1-3. (State's Exhibit 1 – 0:13:14). Sgt. Tebben explained to Defendant that the vehicle was going to be searched incident to the driver's arrest and based on probable cause that additional drug artifacts or evidence may be in the vehicle. MH 15:3-6. (State's Exhibit 1 – 0:13:21).
17. Defendant continued to refuse law enforcement's lawful order to surrender her purse and is advised by Sgt. Tebben she is being detained. MH 15:1-13 & 38:15-17. (State's Exhibit 1 – 0:14:07). Defendant continued to try to pull away from law enforcement and is advised by Sgt. Tebben that she is under arrest. MH 15:16-22. (State's Exhibit 1 – 0:14:19). Defendant continued to resist the efforts of law enforcement to remove her purse and place her in handcuffs. MH 15:24 – 16:6. (State's Exhibit 1 – 0:14:19). Deputy Forbes asked Defendant, "Can you please let go," but Defendant's purse still has to be physically removed from her grip by law enforcement. MH 38:24-25. (State's Exhibit 1 – 0:14:27).

18. After Defendant is secured in a patrol vehicle, Officer St. Peter begins a search of the interior of the vehicle. (State's Exhibit 1 – 0:16:22). Deputy Forbes simultaneously conducts a search of Defendant's purse on the trunk of the vehicle. (State's Exhibit 1 – 0:16:44). Deputy Forbes located two hypodermic needles, a small mirror with a white crystalline substance on it, and a key chain shaped like a bullet with a hidden compartment that contained a marijuana cigarette. MH 16:9-18 & 29:1-9. Deputy Forbes testified all the above items were turned over to Sgt. Tebben. MH 29:10-11. The field testing conducted on those items was presumptively positive for Methamphetamine. MH 16:19-24.
19. Sgt. Tebben, Deputy Forbes, and Officer St. Peter identified the Defendant.
20. This Court finds Sgt. Tebben, Deputy Forbes, and Officer St. Peter credible.
21. All these events occurred in Meade County.
22. This Court also relies on State's Exhibits #1, and it is incorporated herein by reference.

Based on the foregoing Findings of Fact, the Court now hereby makes its Conclusions of Law as follows:

CONCLUSIONS OF LAW

1. Any Finding of Fact deemed to properly constitute a Conclusion of Law or vice versa as the case may be, is hereby incorporated in the Findings of Fact or Conclusions of Law, as the case may be.

2. Under the Fourth Amendment to the United States Constitution and Art. VI, § 11 of the South Dakota State Constitution an individual and their property is protected from unreasonable searches and seizures.
3. “This protection ‘requires generally the issuance of a warrant by a neutral judicial officer based on probable cause prior to the execution of a search or seizure of a person.’” State v. Fischer, 2016 SD 1, ¶ 18, (citing Medicine, 2015 S.D. 45, ¶ 6 (quoting Fierro, 2014 S.D. 62, ¶ 15)).
4. When law enforcement conducts a search in the absence of a warrant, the State has the burden of proving such an exception applies. State v. Fisher, 2016 S.D. 1 ¶18 (citing Medicine, 2015 S.D. 45, ¶ 6).
5. “Among the exceptions to the warrant requirement is a search incident to a lawful arrest.” State v. Fischer, 2016 SD 1, ¶ 18. (Citing Arizona v. Gant, 556 U.S. at 338).
6. “When a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile. It follows from this conclusion that the police may also examine the contents of any containers found within the passenger compartment, for if the passenger compartment is within reach of the arrestee, so also will containers in it be within his reach.” State v. Steele, 2000 SD 78, ¶ 5. (Quoting New York v. Belton, 453 U.S. 454, 460-61).

7. “In contrast to the automobile exception, the incident-to-arrest exception permits a warrantless search of a vehicle “incident to a lawful arrest when it is ‘reasonable to believe evidence relevant to the crime of arrest *might* be found in the vehicle.’” State v. Fischer, 2016 SD 1, ¶ 21. (Citing Gant, 556 U.S. at 343) (Quoting Thornton v. United States, 541 U.S. 615, 632)).
8. The United States Supreme Court analysis of Fourth Amendment protections permit the search of a purse that is inside a vehicle, where that search is incident to a lawful arrest of the driver of the vehicle. State v. Steele, 2000 SD 78, ¶ 5.
9. Our state constitution provides no greater protection against unreasonable searches and seizures than does the federal constitution where the search is incident to arrest. State v. Steele, 2000 SD 78, ¶ 5.
10. The area of the arrestee’s immediate control always includes the passenger compartment of the vehicle and its containers.” State v. Steele, 2000 SD 78, ¶ 6. (Citing Belton, 453 U.S. 454, 460-61).
11. A container is “any object capable of holding another object,” including “closed or open glove compartments, consoles, or other receptacles located anywhere within the passenger compartment, as well as luggage, boxes, bags, clothing, and the like.” State v. Steele, 2000 SD 78, ¶ 6. (Citing Belton, 453 U.S. 454, n4).
12. “It is well settled that an officer having probable cause to believe that an automobile

which he has stopped contains contraband or evidence of a crime may search the vehicle without a warrant under the automobile exception.” State v. Fisher, 2016 S. D. ¶ 19.

13. Whether probable cause [to arrest] exists depends upon the reasonable conclusion to be drawn from the facts known to the arresting officer at the time of the arrest. State v. Fischer, 2016 SD 1, ¶ 16.
14. An officer of the law can arrest a person, without a warrant, for committing or attempting any public offense other than a petty offense in the officer’s presence. SDCL 23A-3-2. State v. Fisher, 2016 S. D. 1 ¶ 16.
15. Sgt. Tebben had probable cause to initiate a traffic stop on the vehicle due to headlight violation which is a Class 2 Misdemeanor. SDCL 32-17-4.
16. Sgt. Tebben further developed probable cause that the driver had committed the crimes of driving without a valid driver’s license and false impersonation to deceive law enforcement.
17. When the driver was subsequently searched, Sgt. Tebben located two hypodermic syringes that appeared to have been used and a baggie with white crystalline substance. One of the hypodermic syringes and the baggie were field tested and both were positive for methamphetamine.
18. Sgt. Tebben then directed Deputy Forbes and Officer St. Peter to conduct a search of the

vehicle incident to and contemporaneous to the driver's arrest. See State v. Steele, 2000 SD 78, ¶ 5.

19. Sgt. Tebben also had probable cause to search every part of the vehicle and its contents that might have concealed additional drug artifacts or identification of the driver. See State v. Fischer, 2016 SD 1, ¶ 19.
20. It is undisputed that Defendant had her purse in her lap in the front passenger compartment of the vehicle, brought it with her as she exited the vehicle, and continually asserted ownership over the purse.
21. Defendant may not, by attempting to remove her purse, change the facts present to law enforcement at the time justification for the search was triggered. State v. Steele, 2000 SD 78, ¶ 10. Here, as in Steele, the Court recognizes that, the rationale for this rule is "the need 'to remove any weapons that [the arrestee] might seek to use in order to resist arrest or effect his escape,' and the need to prevent the concealment or destruction of evidence. State v. Steele, 2000 SD 78, ¶ 6. (Citing Belton, 453 U.S. at 457). "These goals are thwarted if a passenger is permitted to sweep the vehicle of containers large enough to conceal weapons or evidence just prior to the search." State v. Steele, 2000 SD 78, ¶ 18.
22. Here, as in Steele, Defendant's purse constituted a container within the passenger compartment. See State v. Steele, 2000 SD 78, ¶ 6. Further, as the South Dakota Supreme Court noted in Steele, "The Supreme Court has

not created an exception, based on legitimate governmental concerns, to the general rule against warrantless searches only to have it negated by passenger discretion.’ State v. Steele, 2000 SD 78, ¶ 18.

23. This Court finds that here, as is in Fisher and Steele, that the officers merely assured that a container that they had the legal right to search was not removed from the confines of the authorized area. See State v. Steele, 2000 SD 78, ¶ 19; See also State v. Fischer, 2016 SD 1, ¶ 21.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that:

Defendant’s Motion to Suppress the search of her purse is hereby denied.

Dated this 10th day of March, 2023, in Sturgis,
Meade County, South Dakota.

BY THE COURT:



The Honorable John Fitzgerald
Circuit Court Judge

Attest:
Donovan, Kirsten
Clerk/Deputy

