NO. _____

IN THE UNITED STATES SUPREME COURT

MICHAEL HARRIS,

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The Petitioner, Michael Harris, asks for leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. The United States District Court and the United States Court of Appeals for the Sixth Circuit appointed undersigned counsel in the current proceeding, and a copy of the order of appointment is appended.

s/ Forrest L. Wallace
Forrest L. Wallace

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA

v. Case No.: 3:22-cr-00043-TAV-JEM

MICHAEL HARRIS

ORDER

The Court finds after review of the defendant's sworn Financial Affidavit that the above defendant may not have the funds to retain an attorney of the defendant's choice and that the defendant wants to be represented by counsel.

Accordingly, I find that the defendant qualifies for appointment of counsel and it is ORDERED the following counsel will be appointed to represent the defendant:

Forrest L Wallace
Law Office of Forrest Wallace
1518 N. Broadway
Knoxville, TN 37917

865-850-2302

ENTER.

s/Jill E McCook
UNITED STATES MAGISTRATE JUDGE

NO. _____

IN THE UNITED STATES SUPREME COURT

MICHAEL HARRIS,

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Forrest L. Wallace
1518 North Broadway Street
Knoxville, Tennessee 37917
(865) 850-2302
fwallace@forrestwallace.com
Attorney for Michael Harris

QUESTION PRESENTED FOR REVIEW

By April of 2019 both the state of Tennessee and the federal government excluded low-THC (delta-9 tetrahydrocannabinol) marijuana from the definition of illegal "marijuana" as a controlled substance. That resulted in the proliferation of legal, low-THC marijuana products ("hemp"), which look, smell, and smoke the same as the illegal, high-THC variant of the same plant.

The question presented here is:

Does the smell of legal, low-THC marijuana provide probable cause for law enforcement to conduct an extensive search on an automobile?

PARTIES TO THE PROCEEDINGS

All parties appear in the caption of the case and include:

Petitioner Michael Harris, who was the appellant in the court of appeals and the defendant in the district court.

Respondent is the United States of America, which was the appellee in the court of appeals, and the plaintiff in the district court.

RELATED CASE

There are no related cases.

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Statutes:

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PETITION FOR A WRIT OF CERTIORARI

Michael Harris respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit.

OPINIONS BELOW

All documents are contained in the Appendix filed contemporaneously herewith.

JURISDICTIONAL STATEMENT

The Sixth Circuit entered its opinion and judgement on December 19, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

The Fourth Amendment of the United States Constitution provides in full:

The right of the people to be secure in their persons, houses, papers, and effect, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath and affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

On April 24, 2022, Michael Harris was arrested following an investigation that he engaged in the unlawful purchase of firearms and ammunition at a gun show in Knoxville, Tennessee. (Pet. App'x at 8a-9a.) Upon leaving, he was pulled over after an officer witnessed a traffic violation. (Tr. Suppress Hr'g, R. 54, PageID #404-410.) Another officer initiated the stop and smelled the odor of marijuana, leading to Mr. Harris's search and seizure and a more prolonged vehicle search. (*Id.* at PageID #461-463, 503-504.) During the vehicle search, Mr. Harris, ignoring officers' commands, got back into his vehicle and drove away from the scene. (*Id.* at PageID #469-470.) As he left, an officer jumped into the moving vehicle, and as the vehicle sped away, they struggled over control it, ultimately colliding with two vehicles in oncoming traffic. The officer was injured and Mr. Harris fled on foot, only to be captured a short distance away. Mr. Harris was thereafter interrogated by officers and made a series of incriminating statements. A search of his vehicle revealed a large amount of methamphetamine, some cocaine and marijuana, and various firearms, parts, accessories, and ammunition; the latter of which all travelled in interstate commerce. (Pet. App'x at 10a.)

On May 4, 2022, Mr. Harris was indicted on the following charges: (count one) possession with intent to distribute methamphetamine (50 grams or more), in violation of 21, U.S.C. §§ 841(a)(1) and 841(b)(1)(A); (count two) possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A); and (count three) felon in possession of a firearm, in violation of 18 U.S.C. § 922(g). (Pet. App'x at 1a).

Mr. Harris moved to suppress the drugs and firearms, wherein he challenged (1) the stop of the automobile, (2) his seizure and frisk during the traffic stop, and (3) the search of the automobile. (Mot. to Suppress, R. 46.) The district court denied his motion to suppress. (Order,

R. 74, PageID #711.) First, it found that probable cause existed to initiate a traffic stop because Harris committed a roadway lane violation, pursuant to *Tennessee Code Annotated* § 55-8-140. (*Id.* at PageID #707.) Second, it found that officers had probable cause to search Mr. Harris's vehicle based on the smell of burnt marijuana. (*Id.* at PageID #709-710.) Third, based on the collective knowledge doctrine, the investigating officers properly worked in concert to develop probable cause sufficient to search the vehicle. (*Id.* at PageID #710-711.)

Mr. Harris thereafter entered a conditional guilty plea, pursuant to Rule 11(a)(2) of the Federal Rules of Criminal Procedure and thereby preserved his right to appeal the denial of his suppression motion. (Plea Agreement, R. 92, PageID #752.)

On appeal, he primarily argued that officers had neither probable cause nor reasonable suspicion to justify a traffic stop. (Brief, 6th Cir. No. 24-5944, R. 16, Pages 31-37.) He also argued that officers can no longer rely on the smell of illegal marijuana since its smell is identical to that of legal, low-THC marijuana. (*Id.*, R. 16, Pages 37-45.)

The Sixth Circuit rejected Harris's argument related to the traffic offense, holding that his conduct fell "squarely within the plain text of the statute." (Pet. App'x at 11a.) It also rejected his probable cause challenge as to burnt marijuana, citing the recently released opinion in *United States v. Santiago*, 139 F.4th 570, 575 (6th Cir. 2025). Specifically, in *Santiago*, because the arresting officers "had never encountered anyone smoking hemp", a different panel concluded that, to a "'reasonable officer', a marijuana-like odor is so likely to indicate marijuana that it establishes probable cause." (*Id.* at 12a.)

REASONS FOR GRANTING OF THE WRIT

I. THE SIXTH CIRCUIT GOT IT WRONG.

A. The physical characteristics and method of use of legal and illegal marijuana make the two substances indistinguishable absent a lab test.

Since 2019, under both federal law and Tennessee law, it is legal to possess marijuana with a THC (delta-9 tetrahydrocannabinol) concentration of 0.3% or less ("legal marijuana"). *See* 7 U.S.C. § 1639(1); 21 U.S.C. § 802(16)(i); Tenn. Code Ann. § 39-17-402(16)(C); Tenn. Code Ann. § 39-17-403(f)(1); Tenn. Code Ann. § 43-27-101(3). On the other hand, illegal marijuana is defined by a THC concentration above 0.3% and is considered a controlled substance in both jurisdictions. 21 U.S.C. § 802(16)(i); 21 U.S.C. § 812 (schedule I (c)(10)); Tenn. Code Ann. § 39-17-417(a)(4), (g)(1). Both derive from the *cannabis sativa* plant, with the only distinction being the concentration, or level, of THC. [1]

As a result of these legislative changes, between 2020 and 2023, the U.S. market from delta-8 THC increased by 1,283%, from $200.5 million in sales to nearly $2.8 billion.[2] In Tennessee, the hemp industry currently generates approximately $400 million in annual sales.[3] The problem is legal hemp and illegal marijuana smell the same. *See, e.g.* Cynthia Sherwood et

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[1] In 2018, Congress removed "hemp" from the federal definition of marijuana. *See* Agriculture Improvement Act, Pub. L. No. 115-334, § 12619, 132 Stat. 4490, 5018 (2018) (codified at 31 U.S.C. § 802(16)(B)). *See also* Agriculture Act of 2014, H.R. 2642, 113th Cong. (2014). In 2019, the Tennessee General Assembly likewise established that Tennessee law "does not categorize hemp...as a controlled substance." 2019 Tenn. Pub. Acts 87, § 3 (codified at *Tenn. Code Ann.* § 39-17-415(c)).

[2] *See* Noelle Skodzinski, How Big Is the U.S. Markey for Delta-8 THC and Other Intoxicating Hemp-Derived Cannabinoids? (March 6, 2024), https://www.cannabisbusinesstimes.com/business-issues-benchmarks/cannabis-sales-trends/news/15686872/how-big-is-the-us-market-for-delta-8-thc-and-other-intoxicating-hemp-derived-cannabinoids

[3] *See* Anita Wadhwani, Tennessee Hemp Industry Gets Legal Reprieve From Product Ban Until Summer (Feb. 4, 2025), https://www.tennesseelookout/com/briefs/tennessee-hemp-industry-gets-legal-reprieve-from-product-ban-until-summer.

al., *Even Dogs Can't Smell the Difference: The Death of 'Plain Smell', As Hemp is Legalized*, 55 Tenn. B.J. 14, 15-17 (2019).[4] Indeed, Officer Weisenberg, who testified at Harris's suppression hearing, agreed that both substances smell the same and he could not differentiate between the two. (Tr. Suppress Hr'g, R. 54, PageID #506.)

B. Probable cause searches based on the smell of marijuana are no longer valid because smell alone is no longer indicative of a patently illegal substance.

Under the automobile exception to the Fourth Amendment's warrant requirement, police can search a vehicle without a warrant if they have probable cause to believe that it contains evidence of a crime. *California v. Acevedo*, 500 U.S. 565, 580 (1991). Probable cause means a "fair probability" that, based on the totality of the circumstances, evidence of a crime will be found in the place to be searched. *Florida v. Harris*, 568 U.S. 237, 244 (2013). This is a "flexible", "practical", and "common-sensical" standard, focused on assessing "probabilities in particular factual contexts." *Id.* It must arise from "objective facts known to the officers at the time of the search." *United States v. Smith*, 510 F.3d 641, 648 (6th Cir. 2007).

One now former objective fact, used as a basis to conduct vehicle searches for decades, is the smell of marijuana. Courts have analogized the plain smell doctrine as a natural extension of the plain view doctrine, *see e.g. Coolidge v. New Hampshire*, 403 U.S. 443 (1971)[5]. This Court has not explicitly endorsed a search based on smell alone. For example, in *United States v. Johns*, 469 U.S. 478 (1985), the Court held that smell is but one of a series of factors that could lead to a

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[4] The article includes quotes from agents of the Tennessee Bureau of Investigation and the North Carolina State Bureau of Investigation who, to summarize, have concluded that marijuana and hemp look the same; that K-9 drug detection dogs cannot "tell the difference"; and that legal hemp and marijuana, "both unburned and burned.", smell the same. *Id.* at 15.

[5] "*Incontrovertible testimony of the senses* that an incriminating object is on premises belonging to a criminal suspect may establish the fullest measure of probable cause." *Id.* at 468 (emphasis added).

finding of probable cause, and in *Johns* specifically, the police already possessed information indicating marijuana trafficking activity. *Id.* at 480-82.

Vehicle searches have been routinely upheld because of marijuana's unique scent and, historically, its obvious illegality. *See generally United States v. Brooks*, 987 F.3d 593, 599 (6th Cir. 2021) (collecting cases). More recently, however, the legal bulwark that supported the *per se* illegality of marijuana has begun to crumble.

If police officers cannot distinguish, by scent alone, the difference between a legal and illegal substance, then even the very low probable cause threshold cannot be met. The inability to discern between the two means an officer does not have reasonably trustworthy information upon which to conclude that an offense is being committed, and the scenario deteriorates into mere speculation. In other words, the officer is operating on a hunch, and that is contrary to law. These developments also call into question the plain smell doctrine, which now rests precariously on the inference that the smell of marijuana derives from a patently illegal substance.

State courts are addressing this ambiguity, and the trend appears to be that the odor of marijuana is but a factor in determining probable cause rather than a standalone basis for a search.[6] The Sixth Circuit has long held "that officers have the required probable cause when they detect the odor of marijuana coming from the vehicle." *Brooks*, 987 F.3d at 599; *see also United States v. Garza*, 10 F.3d 1241, 1246 (6th Cir. 1993). In *Brooks*, probable cause to search the vehicle was

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[6] *See State v. Green*, 697 S.W.3d 634, 644 (Tenn. 2024) (finding, relative to a canine sniff, that "a positive alert from a drug-sniffing canine may continue to be considered in a totality-of-the-circumstances analysis and may continue to contribute to a probable cause determination."); *Commonwealth v. Barr*, 266 A.3d 25, 41 (Pa. 2021) ("[T]he small of marijuana alone cannot create probable cause to justify a search under the state and federal constitutions."); *Lewis v. State*, 233 A.3d 86, 101-02 (Md. 2020) (finding "the odor of marijuana alone" insufficient to support a warrantless search incident to an arrest.); *Va. Code Ann.* § 4.1-1302 (2021) (forbidding warrantless searches and issuance of search warrants "solely on the basis of the odor of marijuana.").

based on the odor of marijuana, an apparent "marijuana cigar" behind Brooks' ear, and Brooks' furtive movements in the backseat (stuffing something under the seat). *Id.* at 601.[7]

In *United States v. Brown*, 2024 U.S. App. LEXIS 26959 (6th Cir. Oct. 23, 2024), another Sixth Circuit panel rejected a similar plain smell argument under plain error review, before concluding that the caselaw was instead trending in the "opposite direction." *Id.* at *7-8.

Brown relied upon *United States v. McCallister*, 39 F.4d 368, 372-73 (6th Cir. 2022), but *McCallister* involved a reasonable suspicion analysis where officers smelled the odor of marijuana (confirming an anonymous tip) arising from a group of men in a park, located in a high crime area where recent drug crimes had occurred. Officers ordered the men to stop, and while the defendant declined (raising suspicion that he had something to hide) the officers could see a bulge in his waistband; the resulting weapons frisk led to the seizure of a firearm. *Id.* at 374-75. The Sixth Circuit held that the officers "had more than a hunch" that defendant had smoked marijuana. *Id.* at 376.

And, more recently in *Santiago*, officers smelled marijuana emanating from the defendant's vehicle as he parked at a business, and when he got out, the officers saw a pistol in his waistband and seized him to conduct a weapons frisk. *Santiago*, 139 F.4th at 572. Citing *Brooks* and *District of Columbia v. Wesby*, 583 U.S. 48 (2018), the Sixth Circuit brushed aside this plain smell issue, noting that probable cause "does not require officers to rule out" an "innocent explanation for suspicious facts." *Wesby*, 583 U.S. at 61. Yet, these cases strike at the very heart of our probable cause jurisprudence, and despite recent changes in the law, *Brooks* continues to be

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[7] *See United States v. Gartrell*, 2023 U.S. App. LEXIS 22719 at *8 (6th Cir. Aug. 28, 2023) (defendant stopped in high crime area after slumping down in a car, along with odor of marijuana; plain smell distinction issue not raised); *United States v. Colbert*, 2022 U.S. Dist. LEXIS 227991 at *8 (N.D. Ohio, Dec. 19, 2022) (car stop upheld where officer's detection of burnt odor of marijuana in a parking lot was based on a reasonable belief of its illegality).

the foundation for plain smell analysis in the Sixth Circuit. *See Illinois v. Gates*, 462 U.S. 213, 238 (1983) (probable cause demands a fair probability that evidence of a crime will be found in a particular place).

If the sole probability element (the odor) is now splintered into two different variables, one legal and one not, how can a court objectively measure the validity of an officer's conclusion that, yes, the odor is most likely marijuana? Mr. Harris respectfully suggests that an 'odor plus' probable cause standard for marijuana plain smell cases would still comport with *Gates'* totality of the circumstances test; it would become one factor amid any other (*e.g.* admissions, deceptions, a firearm) that an officer could use to make a more concrete decision to intrude upon a person's Fourth Amendment protections. The facts of this case highlight the shortcomings of the current plain smell doctrine.

The sole basis of probable cause for the vehicle search was Officer Wiesenberg's claim that he smelled "the odor of marijuana emitting from the vehicle" (Tr. Suppress Hr'g, R. 54, PageID #461), which "gave [him] cause to search the vehicle". (*Id.* at PageID #502.) Once again, he agreed that hemp smells like marijuana and, tellingly, that "we" (i.e. police officers) cannot differentiate between the two. (*Id.* at PageID #506.) Legal hemp is commonly marketed as a "weed" adjacent product and the websites and product labels for hemp products sold in the Knoxville area feature marijuana plants prominently.[8]

Officer Wiesenberg did not attempt to discern what kind of marijuana Mr. Harris smoked, and his conclusion that it was marijuana was speculative at best. (*See* Report, R. 61, at Page ID #567, finding that Defendant admitted that he or his passenger "probably" smoked marijuana in

[8] See for example: The Blom Shop, https://theblomshop.com (last visited Feb. 10, 2025); Hemp Connect, https://www.hemp-connect.com (last visited Feb. 10, 2025); The Hive, https://thehiveknoxville.com (last visited Feb. 10, 2025).

the vehicle the day before). Instead, the smell alone was the green light to search Mr. Harris' vehicle. Finally, the record underscores that whatever Mr. Harris or his passenger may have smoked the day before, the officers neither suspected nor pursued an investigation for driving under the influence of marijuana.

On the issue of plain smell, the magistrate's Report points out in a series of cases that an officer's "detection of [the] odor [of marijuana], by itself, is sufficient to provide probable cause to conduct a lawful search of a vehicle." *United States v. Crumb*, 287 F. App'x 511, 514 (6th Cir. 2008) (collecting cases)[9]. The district court held that Mr. Harris' objections to the Report were vague and conclusory but offered no specific analysis of his plain smell challenge, other than to reaffirm that the magistrate judge "properly rejected defendant's argument that officers lacked probable cause to search his vehicle, as well as his argument that Officer Weisenberg's testimony that he smelled burnt marijuana coming from the minivan was neither corroborated nor credible." (Order, R. 74, PageID #708-10.)

Officer Weisenberg's conclusion that he smelled burnt marijuana was clearly erroneous; an impossibility in fact, because he admitted that hemp and illicit marijuana smell the same. The only other fact at issue – Mr. Harris' passing admission that someone may have smoked marijuana in the same vehicle the day before – is still not, under a totality of the circumstances, enough to satisfy probable cause. The district court erred in accepting his conclusions as fact, and from this mistake, the entire edifice of the Government's case was constructed, which the district court confirmed as legal, and which the Sixth Circuit affirmed.

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[9] The district court also cited *United States v. Elkins*, 300 F.3d 638, 659 (6th Cir. 2002) (similar principle); *United States v. Matthews*, 422 F. Supp. 3d 1235, 1246 (W.D. Ky. 2019) (officer not required to have any "particular training and experience in detecting marijuana.").

Mr. Harris provided a valid driver's license and car rental agreement. But these items were immaterial because, based on Officer Wiesenberg's hunch that he smelled marijuana, Harris was removed from vehicle. He consented to a brief *Terry* search of his person, which revealed a wallet, two cellular phones and three wads of cash. When coupled again with the odor of marijuana, Officer Wiesenberg's deduction went a step further. He further concluded, based on his training and experience, that the phones, the loose cash, and the odor, taken together, indicated drug trafficking, which further bolstered the vehicle search. (Tr. Suppress Hr'g R. 54, PageID #462-63.)

While Mr. Harris remained seized, he was not under formal arrest and instead was permitted to remain at the back of the van while officers conducted a nonconsensual warrantless vehicle search. A marijuana grinder and ammunition were located in the front compartment, and a few minutes later, after the purchased firearms and accessories were removed from the trunk, Officer Wiesenberg opened a purple suitcase that contained a large amount of apparent methamphetamine. In response, Mr. Harris made a fateful decision to jump back inside the van and drive away, which caused another officer to jump in as well, and this episode then took a very dramatic and dangerous turn for the worse.

The plain smell doctrine guided this chain of events. Had there not been an odor of marijuana, it is certainly possible Mr. Harris could have then been removed to issue him a citation for the lane change violation, and perhaps some other clue could have been developed to justify a vehicle search, but it seems unlikely.

Ultimately, Mr. Harris contends that a vehicle search based solely on the smell of marijuana no longer complies with the changing legal landscape, when an identical looking and smelling product was probably being sold inside the very gas station where this search took place. The

immediate and undeniable illegality of marijuana is no longer self-evident, and its smell cannot, by itself, meet the burden of probable cause.

CONCLUSION

For the foregoing reasons, Mr. Harris respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

s/ Forrest L. Wallace
Forrest L. Wallace (BPR# 028167)
Counsel for Petitioner
1518 N. Broadway St.
Knoxville, TN 37917
(865) 850-2302
fwallace@forrestwallace.com

NO. _____

IN THE UNITED STATES SUPREME COURT

MICHAEL HARRIS,

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v.

UNITED STATES OF AMERICA

Respondent.

PROOF OF SERVICE

I, Forrest Wallace, do swear or declare that on this date, March 19, 2026, as required by Supreme Court Rule 29 I have served the enclosed Motion for Leave to Proceed *In Forma Pauperis* and Petition for a Writ of Certiorari on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Solicitor General of the United States
Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5614
Washington, D.C. 20530

Executed on March 19, 2026.

s/ Forrest L. Wallace
Forrest L. Wallace

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IN THE UNITED STATES SUPREME COURT

MICHAEL HARRIS,

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE KNOXVILLE DIVISION

UNITED STATES OF AMERICA

v.

MICHAEL HARRIS

USM#97942-509

JUDGMENT IN A CRIMINAL CASE

Case Number: **3:22-CR-00043-TAV-JEM(1)**

Forrest L Wallace
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s): 1 and 3 of the Indictment

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

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

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section and Nature of Offense	Date Violation Concluded	Count
[Enhanced] 21 U.S.C. § 841(a)(1) and 21 U.S.C. § 841 (b)(1)(A) and 21 U.S.C. § 851 – Possession with Intent to Distribute 50 Grams or More of Methamphetamine	04/24/2022	1
18 U.S.C. § 922(g)(1) and 18 U.S.C. § 924(a)(2) – Felon in Possession of Firearms and Ammunition	04/24/2022	3

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 and 18 U.S.C. § 3553.

☐ The defendant has been found not guilty on count(s).

☒ All remaining count(s) as to this defendant are dismissed upon motion of the United States.

IT IS ORDERED that the defendant shall 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 shall notify the court and the United States attorney of any material change in the defendant's economic circumstances.

October 1, 2024
Date of Imposition of Judgment

s/ Thomas A. Varlan
Signature of Judicial Officer

Thomas A Varlan, United States District Judge
Name & Title of Judicial Officer

October 2, 2024
Date

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 380 months. This consists of 380 months as to Count One and 120 months as to Count Three with such terms to run concurrently.

☒ The court makes the following recommendations to the Bureau of Prisons: that the defendant receive 500 hours of substance abuse treatment from the Bureau of Prisons' Institution Residential Drug Abuse Treatment Program and a mental health evaluation and any treatment deemed appropriate. It is further recommended that the defendant be designated to FCI Milan.

☒ 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

By

DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **ten (10) years** as to Count One and three (3) years as to Count Three, to be served concurrently, for a net term of 10 years.

MANDATORY CONDITIONS

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 sentencing 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 which 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*)

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the mandatory, standard, and any special 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.

Defendant's Signature _____ Date _____

SPECIAL CONDITIONS OF SUPERVISION

1. You must participate in a program of testing and treatment for drug and/or alcohol abuse, as directed by the probation officer, until such time as you are released from the program by the probation officer.

2. You must participate in a program of mental health treatment, as directed by the probation officer, until such time as you are released from the program by the probation officer. You must waive all rights to confidentiality regarding mental health treatment in order to allow release of information to the supervising United States Probation Officer and to authorize open communication between the probation officer and the mental health treatment provider.

3. You must take all medication prescribed by the treatment program as directed. If deemed appropriate by the treatment provider or the probation officer, you must submit to quarterly blood tests to determine whether you are taking the medication as prescribed.

4. You must submit your person, property, house, residence, vehicle, papers, [computers (as defined in Title 18 U.S.C. § 1030(e)(1), other electronic communications or data storage devices or media,] or office, to a search conducted by a United States probation officer or designee. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

5. You must participate in a program that addresses domestic violence, anger management, or general violence as approved by the probation officer.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments sheet of this judgment.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment **
TOTALS	$200.00	$.00	$.00	$.00	$.00

☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* 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.

☐ 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 under the Schedule of Payments sheet of this judgment 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:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** 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.

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 $ 200.00 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 *(e.g., 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 imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to **U.S. District Court, 800 Market Street, Suite 130, Howard H. Baker, Jr. United States Courthouse, Knoxville, TN, 37902.** Payments shall be in the form of a check or a money order, made payable to U.S. District Court, with a notation of the case number including defendant number.

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

☐ Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.

☐ 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) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA Assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

NOT RECOMMENDED FOR PUBLICATION

File Name: 25a0594n.06

No. 24-5944

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. MICHAEL HARRIS, Defendant-Appellant.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE OPINION

Before: BOGGS, BUSH, and READLER, Circuit Judges.

BOGGS, Circuit Judge. Following a traffic stop and a search of his vehicle that uncovered drugs and guns, Michael Harris was charged with drug trafficking and firearms offenses. After the district court denied his motion to suppress, Harris pleaded guilty to possession with intent to distribute of fifty grams or more of methamphetamine and being a felon in possession of firearms and ammunition. Harris retained his right to appeal the denial of his motion to suppress, which he now does. For the following reasons, we affirm.

I

On April 24, 2022, the Knox County Sheriff's Office ("KCSO"), Knoxville Police Department ("KPD"), and Bureau of Alcohol, Tobacco, and Firearms ran a joint surveillance operation to detect illegal firearm sales at a gun show in the Knoxville Expo Center. Undercover officers observed a man walking from booth to booth, displaying and describing various firearms to someone over FaceTime on his cell phone. Viewing this behavior as indicative of a potential

illicit straw purchase, police took greater interest. After the man made numerous purchases and left the gun show, officers began to follow him in hopes of observing a traffic violation and making a pretextual stop. They also ran his van's out-of-state plates, which revealed that it was a rental.

The van then turned into a Popeyes restaurant. In the radio transmissions among the officers, at least one detective reported seeing the van pull into the drive-through and leave with food. KCSO Detective Marcus Parton, however, observed only that the vehicle entered and exited the Popeyes before continuing in the same direction. He thus concluded that Harris's Popeyes detour was a "heat check"—a countersurveillance technique meant to detect whether law enforcement was tailing him.

Detective Parton followed the van to an intersection with a designated straight-only lane (through-lane) and a designated left-turn lane. According to Detective Parton, who was pulled up behind the van in the through-lane, the van "immediately and abruptly turned left" from the through-lane when the light turned green; that is, it "cut across" the left-turn lane to enter the cross street. Detective Parton then radioed that the vehicle had made an illegal turn, prompting two KPD officers to follow the van to a gas station and conduct a traffic stop. When officers approached the vehicle, they discovered Harris in the driver's seat; there was also a passenger in the vehicle. One officer smelled what he believed to be the odor of burnt marijuana emanating from the van's open window. Based on that odor, he informed Harris that he planned to search the van. When questioned, Harris admitted that he and his passenger had probably smoked marijuana the previous day. The officer instructed Harris to exit the van for a frisk. Both officers then began to search the van, finding three wads of cash, two cell phones, a marijuana grinder, ammunition, firearms, firearm accessories, and a pink suitcase. When one of the officers began to search the suitcase, Harris got back in the van, fled the scene of the stop, and

promptly crashed into two other vehicles. The officer completed the search of the suitcase at the scene of the crash, finding almost a kilogram of methamphetamine. Harris was charged in federal court with possession with intent to distribute of fifty grams or more of methamphetamine, possession of firearms in furtherance of a drug-trafficking offense, and being a felon in possession of firearms and ammunition.

Harris moved to suppress the evidence seized pursuant to the traffic stop and related search. He argued that (1) officers had neither reasonable suspicion of criminal activity nor probable cause of a traffic violation to justify the stop and (2) the officers lacked probable cause to search the vehicle. The district court denied that motion. Harris now appeals.

II

"When a defendant appeals the denial of a motion to suppress evidence, we review the district court's findings of fact under the clear-error standard[,] and we review its conclusions of law de novo." *United States v. Ickes*, 922 F.3d 708, 710 (6th Cir. 2019). "A factual finding will only be clearly erroneous when, although there may be evidence to support it," we are "left with the definite and firm conviction" that the district court made a mistake. *United States v. Navarro-Camacho*, 186 F.3d 701, 705 (6th Cir. 1999). In addition, when the district court denies a motion to suppress, "we review all evidence in the light most favorable to the government." *United States v. Gunter*, 551 F.3d 472, 479 (6th Cir. 2009).

A

The Fourth Amendment protects the right of the people to be free from "unreasonable searches and seizures." U.S. Const. amend. IV. Warrantless searches and seizures "are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." *Katz v. United States*, 389 U.S. 347, 357 (1967). As pertinent here,

an officer may conduct a warrantless traffic stop when there is "probable cause to believe that a traffic violation has occurred." *Whren v. United States*, 517 U.S. 806, 810 (1996).

It was not error for the district court to credit Detective Parton's testimony and find probable cause to believe that a traffic violation had occurred. At the suppression hearing, Detective Parton testified that he witnessed Harris make an immediate left turn from a designated straight-only lane, in violation of Tenn. Code Ann. § 55-8-140(5)(a). That provision states: "Where a special lane for making left turns . . . has been established[, a] left turn shall not be made from any other lane unless a vehicle cannot safely enter the turn lane[.]" Tenn. Code Ann. § 55-8-140(5)(a). Harris's conduct thus falls squarely within the plain text of the statute. As for the unsafe-entry exception, Detective Parton claimed that, to the best of his knowledge, no other cars were in the left-turn lane. We agree with the district court that "[s]uch testimony indicates that defendant could have safely entered the designated turn lane when the light turned green but did not do so." Further, because Detective Parton informed the responding officers that Harris had made an illegal turn, his personal knowledge and level of suspicion is properly imputed to them. *See, e.g.*, *United States v. Lyons*, 687 F.3d 754, 765–66 (6th Cir. 2012) (explaining the "well-established" rule that officers are presumed to have collective knowledge). Harris provides no evidence to undermine Detective Parton's testimony other than his own contentions on appeal.[1] Hence, the district court did not err in finding probable cause sufficient to justify the stop.

[1] Harris insists that "reasonable minds could interpret [Detective Parton's] testimony differently," and that one such interpretation is that Harris did in fact enter the left-turn lane before turning. First, any such ambiguity would redound to the government's benefit, since we view the evidence in the light most favorable to it. *See Gunter*, 551 F.3d at 479. Second, Harris's argument appears to rest on his misunderstanding of Detective Parton's statement that "we weren't so far back from the light that you couldn't make your way to the turn lane." But this is merely a clarification of his preceding sentence that "we were within the area to be in the turn lane." In other words, Detective Parton meant that *before* stopping, the vehicles were already within the stretch of roadway where entry into the left-turn lane would have been lawful—not that, *after* stopping, there remained enough space to maneuver into the lane such that "cut[ting] across" it (in Detective Parton's words) described lawful travel within it. Indeed, he testified that Harris's vehicle stopped "pretty close up to the white line at the red light."

B

Harris next contends that burnt marijuana smells the same as burnt hemp, which is legal; thus, marijuana odor alone did not provide probable cause to search his vehicle. A different panel of this court rejected that argument in *United States v. Santiago*, 139 F.4th 570, 575 (6th Cir. 2025). In that case, the arresting officers' testimony that they had never encountered anyone smoking hemp supported the panel's conclusion that, to a "reasonable officer," a marijuana-like odor is so likely to indicate marijuana that it establishes probable cause. *Ibid.* Furthermore, while that case concerned probable cause for an arrest, the court was clear that in both the search and arrest contexts, police have probable cause to believe "that marijuana is present where they smell it." *Ibid.* at 574. We are, of course, bound by the decisions of prior panels. *Moltan Co. v. Eagle-Picher Indus., Inc.*, 55 F.3d 1171, 1176 (6th Cir. 1995).

III

For the foregoing reasons, we **AFFIRM** the district court's denial of Harris's motion to suppress and his ensuing conviction.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 24-5944

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL HARRIS,

Defendant - Appellant.

FILED
Dec 19, 2025
KELLY L. STEPHENS, Clerk

Before: BOGGS, BUSH, and READLER, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Eastern District of Tennessee at Knoxville.

THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court is AFFIRMED.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk