

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA,**  
*Plaintiff,*

v.

**JAMES WILLIAMS**  
*Defendant.*

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**CRIMINAL ACTION**

**NO. 17-645-1**

**MEMORANDUM**

PRATTER, J.

DECEMBER 17, 2018

James Williams was arrested shortly after allegedly driving Aisha Jones to sell narcotics to a confidential informant working with the Bensalem Township Police Department. Mr. Williams is being prosecuted for various drug distribution and firearm offenses. He seeks to suppress from introduction into the evidence for this case the following items: (1) all physical evidence seized after his arrest; (2) his post-arrest statements; and (3) cell phone records obtained after his arrest. In support of his motion, Mr. Williams argues that the law enforcement officers lacked particularized probable cause to arrest him, and that the officers searched his car without probable cause to believe it contained contraband. Following an evidentiary hearing and oral argument, and upon review of the briefing and applicable case law, the Court finds that the arresting officers had probable cause to arrest Mr. Williams and to search his car for contraband. Therefore, Mr. Williams' motion to suppress is denied.

**FINDINGS OF FACT**

The Court finds the following facts based on evidence presented at the evidentiary hearing:

Christopher Grayo is a police officer in the Special Investigations Unit and, as part of his responsibilities, works with confidential informants. On July 18, 2017, a CI informed Officer Grayo

that he met a woman, later identified as Ms. Jones, in a Walmart parking lot. The CI told Officer Grayo that Ms. Jones, who was accompanied by two unidentified black men, asked the CI if he wanted to buy narcotics. The CI told Officer Grayo that he agreed to purchase \$200 worth of heroin and \$500 worth of crack cocaine from Ms. Jones, and that he exchanged phone numbers with her. Officer Grayo had worked with this particular CI on approximately fifteen (15) earlier occasions, and this CI had previously provided Officer Grayo reliable information.

At Officer Grayo's direction, the CI arranged to meet Ms. Jones in the parking lot of a shopping center at approximately 7:00 p.m. that same day to purchase the drugs. Officer Grayo informed the CI that he could only purchase \$200 worth of heroin, not the \$700 worth of narcotics that was originally discussed by the CI and Ms. Jones in the Walmart parking lot. The CI did not inform Ms. Jones that he would be purchasing less narcotics.

In preparation for the operation, officers searched the CI and his car for drugs in advance of the proposed transaction. They found none. Officer Grayo provided the CI with a "takedown" signal that the CI was to give when the drug transaction was complete. The CI then went to the shopping center to wait for Ms. Jones, and the officers established surveillance positions in and around the parking lot.

Although Ms. Jones was running late, the CI and Ms. Jones were in contact by text message and by phone. Ms. Jones advised the CI several times that she was on her way. The CI kept Officer Grayo apprised of what was happening, and Officer Grayo, in turn, relayed that information over police radio to the other officers.

It was during this time period that Officer Grayo learned that Ms. Jones was not alone. The CI told Officer Grayo that an unknown man spoke to the CI on Ms. Jones' phone at least one time. The unknown man asked the CI if he was with law enforcement. The CI responded that he was not.

Around 9:00 p.m., Officer Grayo decided to call off the operation. Officer Grayo, the CI, and most of the officers involved left the shopping center. However, Sergeant Adam Kolman remained behind. A few minutes after Officer Grayo called off the operation, the CI received a phone call from an unknown man informing the CI that they were at the parking lot where the CI had planned to meet

Ms. Jones and that they were in a green Ford Mustang. The CI told Officer Grayo what the man said, and Officer Grayo instructed the other officers by police radio to return to the parking lot. He also informed them that the target was in a green Ford Mustang.

Shortly after receiving the radio call from Officer Grayo, Sergeant Kolman saw a dark-colored Ford Mustang enter the parking lot. Although Sergeant Kolman did not see the Mustang operating in any illegal manner, he testified that it appeared that the driver of the car was looking for what he described as “an advantageous parking spot to conduct a drug deal.”

When the CI and Officer Grayo returned to the parking lot, approximately five minutes after the CI received the call from the unidentified man, the Mustang was already parked in front of an out-of-business Kmart. The CI parked in front of the Mustang, and Officer Grayo parked nearby. From his position, Officer Grayo watched the CI approach the two-door Mustang on the passenger side. Ms. Jones, who was in the front passenger seat, let the CI into the back seat. Officer Grayo was not able to see anything that occurred inside the car. Shortly thereafter, the CI got out of the car and gave the prearranged “takedown” signal.

The officers then approached the Mustang and detained Mr. Williams, taking him out of the car and placing him in handcuffs. Officer Grayo handcuffed the CI. When he did, packets of heroin fell from the CI’s hand.

After placing the CI in his car, Officer Grayo approached the Mustang. At this point in time, Mr. Williams had already been arrested. Officer Grayo saw Ms. Jones sitting in the passenger seat. Officer Grayo called the phone number used by the CI to contact Ms. Jones, and when he did, a phone on the passenger seat of the Mustang rang.

Officer Grayo then spoke with Mr. Williams and asked him if the Mustang was Mr. Williams’ car. Mr. Williams stated that it was. Officer Grayo took the keys from the ignition and used another key on the key ring to unlock the glove compartment. Inside the glove compartment, Officer Grayo saw a firearm and drugs, including packets of heroin branded the same way as the packets of heroin the CI had in his possession. Officer Grayo also noticed the smell of marijuana from inside the Mustang.

The Mustang was then towed to the Bensalem station where officers conducted an inventory

search. During this search, officers found additional narcotics, cash, and other evidence of drug trafficking.

On December 19, 2017, the grand jury returned a four-count indictment, charging Mr. Williams with: (1) distribution of heroin, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C) and 18 U.S.C. § 2; (2) possession with intent to distribute heroin, in violation of 21 U.S.C. §841(a)(1), (b)(1)(C) and 18 U.S.C. §2; (3) possession of a firearm during and in relation to the drug trafficking crimes, in violation of 18 U.S.C. § 924(c); and (4) possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1).

On April 17, 2018, Mr. Williams filed the motion to suppress at issue here.

#### **LEGAL STANDARD**

“Law enforcement authorities do not need a warrant to arrest an individual in a public place as long as they have probable cause to believe that person has committed a felony.” *United States v. McGlory*, 968 F.2d 309, 342 (3d Cir. 1992) (citing *United States v. Watson*, 423 U.S. 411, 421 (1976)). Although the probable cause standard can be difficult to define, the Supreme Court has stated that “[t]he substance of all the definitions of probable cause is a reasonable ground for belief of guilt,” and “that the belief of guilt must be particularized with respect to the person to be searched or seized.” *Maryland v. Pringle*, 540 U.S. 366, 371 (2003) (citations and internal quotations omitted). To determine whether an officer had probable cause to arrest an individual, a court must “examine the events leading up to the arrest, and then decide whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause.” *Id.* (citations and internal quotations omitted). When judging any inference made by the arresting officers, the Court “must view these facts through the lens of the [arresting officers’] significant experience with similar transactions.” *United States v. Burton*, 288 F.3d 91, 99 (3d Cir. 2002) (citations omitted).

“The automobile exception to the warrant requirement permits law enforcement to seize and search an automobile without a warrant if ‘probable cause exists to believe it contains contraband.’” *United States v. Burton*, 288 F.3d 91, 99 (3d Cir. 2002) (quoting *Pennsylvania v. Laron*, 518 U.S. 938, 940 (1966)). While a seizure or search of property without a warrant ordinarily requires a showing of both probable cause and exigent circumstances, “the ‘ready mobility’ of automobiles permits their search based only on probable cause.” *Id.* (citing *Maryland v. Dyson*, 527 U.S. 465, 466–67 (1999)).

## DISCUSSION

The Government makes two arguments as to why Mr. Williams’ motion to suppress should be denied: (1) the officers had probable cause to arrest Mr. Williams; and (2) the officers were justified in searching Mr. Williams’ car because they had probable cause to believe it contained contraband. Based on the facts and law as discussed above, the Court agrees.

### **I. The Officers Had Probable Cause to Arrest Mr. Williams**

Mr. Williams argues that the officers did not have probable cause to arrest him for any crimes because he “was merely present in the car” in which Ms. Jones sold narcotics to the CI. However, this argument minimizes Mr. Williams’ role in the transaction, as was obvious to the officers at the time, namely that he was taking an active role by driving Ms. Jones. The argument also ignores Supreme Court case law and cases from a host of lower courts explaining that drug trafficking is an enterprise to which a dealer would be unlikely to admit an innocent third person during a drug transaction.

The Court’s analysis of probable cause in this case is guided by the Supreme Court’s analysis in *Maryland v. Pringle*. In *Pringle*, the police officers stopped a speeding car. 540 U.S. at 367. Three occupants were in the car: a driver, a front seat passenger—the defendant—and a backseat passenger. *Id.* at 368. The driver consented to a search of the car, and the officers found \$763 in the glove compartment and cocaine behind the back-seat armrest. *Id.* The officers

questioned all three men about the ownership of the drugs and money, but the men offered no information. All three were placed under arrest and transported to the police station. *Id.* at 369. At the station, the defendant waived his *Miranda* rights and confessed that he owned the drugs. *Id.* The defendant filed a motion to suppress his post-arrest statements, arguing that the officers did not have probable cause for his arrest in the first instance. *Id.*

The Supreme Court held that the defendant's arrest was supported by probable cause. *Id.* The Court pointed out that there was \$763 in cash in the glove compartment directly in front of the defendant, that five baggies of cocaine were behind the back-seat armrest and accessible to all three men, including the defendant, and that none of the men offered any information with respect to the ownership of the cocaine or money. *Id.* at 371–72. The Court concluded that it was “an entirely reasonable inference from these facts that any or all of the occupants had knowledge of, and exercised dominion and control over, the cocaine.” *Id.*

The Court distinguished the facts in *Pringle* from *Ybarra v. Illinois*, 444 U.S. 85 (1979). In *Ybarra*, police officers obtained a warrant to search a tavern and its bartender for evidence of possession of a controlled substance. *Id.* at 88. Upon entering the tavern, the officers searched the customers present in the tavern, including the defendant in that case, and found drugs on the defendant's person. *Id.* at 89. The *Ybarra* Court held that the officers did not have probable cause to search the defendant. It reasoned that “a person's mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person.” *Id.* at 91.

The *Pringle* Court distinguished *Ybarra* on the ground that the defendant and his two companions “were in a relatively small automobile, not a public tavern.” *Pringle*, 540 U.S. at 373; *see also Wyoming v. Houghton*, 526 U.S. 295, 304–05 (1999) (“[A] car passenger—unlike the unwitting tavern patrons in *Ybarra*—will often be engaged in a common enterprise with the driver, and have the same interest in concealing the fruits or evidence of their wrongdoing.”). The Court concluded that it was reasonable for the officers to “infer a common enterprise among the three

men” because the evidence “indicated the likelihood of drug dealing, an enterprise to which a dealer would be unlikely to admit an innocent person with the potential to furnish evidence against him.” *Pringle*, 540 U.S. at 373.

The *Pringle* Court also distinguished *United States v. Di Re*, 332 U.S. 581 (1948), as inapposite. In *Di Re*, an informant told an investigator that he was to receive counterfeit gasoline ration coupons from Mr. Buttitta at a particular place. *Id.* at 583. The investigator went to the place and saw the informant, the sole occupant of the rear seat of the car, holding gasoline ration coupons. *Id.* There were two other occupants in the car: Mr. Buttitta sat in the driver’s seat, and the defendant, Mr. Di Re, sat in the front passenger’s seat. *Id.* Upon exiting the car, the informant told the investigator that Mr. Buttitta had given him the counterfeit coupons. Thereupon, all three men were arrested and searched. *Id.* The *Di Re* Court held that the investigator had no probable cause to search Mr. Di Re. The Court noted that the investigator had no information pointing to Mr. Di Re’s possession of coupons besides his mere presence in the car and explained that “[a]ny inference that everyone on the scene of a crime is a party to it must disappear if the Government informer singles out the guilty person.” *Id.* at 593–594. The *Pringle* Court concluded that, unlike in *Di Re*, no such singling out occurred in its case.

Lastly, the Second Circuit Court of Appeals’ opinion in *United States v. Delossantos*, 536 F.3d 155 (2d Cir. 2008), is useful here. In *Delossantos*, an undercover DEA agent met with an identified individual—Marino Delossantos—and set up a place and time for a drug deal. *Id.* at 157. The day of the deal, DEA agents who were surveilling Mr. Delossantos’s house saw Mr. Delossantos and an unidentified individual—later identified as Francisco Rodriguez—leave the house and get into a car. *Id.* Mr. Rodriguez drove. *Id.* The undercover agent called Mr. Delossantos to inquire about his whereabouts, and the agent testified that he could hear car sounds and another person in the background. *Id.* Both men returned to the house, remained there for ten minutes, and then got back into the car. *Id.* Again, Mr. Rodriguez drove. *Id.* When the car pulled into the location for the drug deal, agents immediately surrounded it and arrested both Mr.

Delossantos and Mr. Rodriguez. *Id.* at 158. Mr. Rodriguez moved to suppress his post-arrest statements, arguing that the arresting officers did not have probable cause to arrest him because he did not engage in any suspicious activity, given that all he was seen doing was driving Mr. Delossantos to the location.

Relying, in part, on *Pringle*, the Second Circuit Court of Appeals concluded that “the arresting agents had reason to think [Mr. Rodriguez’s] involvement in the drug deal was, at minimum, probable.” *Id.* at 161. The court distinguished *Di Re*, explaining that “[w]hereas *Di Re* was merely seen sitting in the suspect’s vehicle when officers approached, the agents here saw [Mr. Rodriguez] ferry Delossantos between the likely drug-stash location and the transaction point and heard Delossantos discuss details of the transaction . . . with [Mr. Rodriguez] evidently sitting beside him.” *Id.* at 160.

The facts here closely align with those in *Delossantos*. Here, like in *Delossantos*, the arresting officers, through the CI, set up a controlled drug deal with a specific individual, Ms. Jones. Like in *Delossantos*, while waiting for Ms. Jones to arrive at the location, the arresting officers learned that the dealer was not alone. Here, the arresting officers knew this because the CI spoke with an unknown man on two occasions: (1) on one phone call, an unknown man asked if the CI was working with law enforcement; and (2) more importantly, on another phone call after Officer Grayo had called off the operation and left the parking lot, an unknown man told the CI that he was at the set location in a Green Ford Mustang. This second call took place approximately five minutes before the CI and Officer Grayo returned to the location, the CI entered the car for the drug deal, and the CI gave the “takedown” signal. The proximity in time between this call and Mr. Williams presence’ in the driver seat of the car where the drug deal occurred increases the likelihood that Mr. Williams was the unknown man who called the CI. If anything, the officers had more reason to believe that Mr. Williams was a party to the drug deal than the officers in *Delossantos* had reason to suspect the involvement of the defendant, because unlike in *Delossantos*, where the defendants were arrested after pulling into the location, there is

evidence here that the drug deal actually took place and that Mr. Williams was a witness to it.

Contrary to Mr. Williams' argument, *Di Re* does not control here. Unlike in *Di Re*, where the defendant was a mere spectator to the crime, Mr. Williams took a more active role by "ferrying" Ms. Jones to the location of the deal. *Delossantos*, 536 F.3d at 160. Moreover, the *Di Re* holding was cabined by the specific facts in that case. The Court recognized that "the argument that one who 'accompanies a criminal to a crime rendezvous' cannot be assumed to be a bystander, [is] forceful enough in some circumstances." *Di Re*, 332 U.S. at 593. However, the Court explained that such an argument was "farfetched" in *Di Re* where "the meeting [was] not secretive or in a suspicious hide-out but in broad daylight, in plain sight of passers-by, in a public street of a large city, and where the alleged substantive crime is one which does not necessarily involve any act visibly criminal." *Id.*

Here, in contrast, the crime at issue is drug trafficking, "an enterprise to which a dealer would be unlikely to admit an innocent person with the potential to furnish evidence against him." *Pringle*, 540 U.S. at 373. Moreover, unlike in *Di Re*, the crime here occurred at night in front of an out-of-business Kmart, in a parking spot referred to by Sergeant Kolman as an "an advantageous" spot "to conduct a drug deal." And, unlike in *Di Re*, where the defendant might not have realized that the sale of gasoline ration coupons was illegal, Mr. William likely knew that the exchange he witnessed was illegal. Finally, although the CI here had been primarily communicating with Ms. Jones, and Ms. Jones was originally the target of the operation, nothing in the record suggests that the CI singled out Ms. Jones as the only participant in the drug deal before police officers arrested both individuals, further differentiating this case from *Di Re*.

For these reasons, the Court concludes that the arresting officers had probable cause to arrest Mr. Williams after the CI gave the "takedown" signal. Because Mr. Williams' arrest was supported by probable cause, the arrest cannot serve as the basis to suppress any of the physical evidence recovered after that arrest, Mr. Williams' post-*Miranda* statements, or Mr. Williams' phone records.

**II. The Officers Were Justified in Searching Mr. Williams' Car Because They Had Probable Cause to Believe It Contained Contraband**

The Government also argues that law enforcement officers were justified in searching Mr. Williams' car because they had probable cause to believe it contained contraband. The Court agrees. *United States v. Burton*, 288 F.3d 91, 99 (3d Cir. 2002) (“The automobile exception to the warrant requirement permits law enforcement to seize and search an automobile without a warrant if ‘probable cause exists to believe it contains contraband.’”) (quoting *Pennsylvania v. Laron*, 518 U.S. 938, 940 (1966)). For the same reasons that the officers had probable cause to arrest Mr. Williams, they had probable cause to search for additional drugs in the car, along with other items associated with drug trafficking. Moreover, the fact that the officers knew that the CI had initially set the transaction for more drugs than what was ultimately purchased and the fact that Officer Grayo noted the smell of marijuana in the car provided further support to the officers' expectation that additional contraband would be found in the car. Because the officers were justified in searching Mr. Williams' car pursuant to the automobile exception, the search of his car cannot serve as the basis to suppress any of the physical evidence recovered.

For the reasons stated herein, Mr. Williams' motion to suppress is denied. An appropriate order follows.

BY THE COURT:

/s/ Gene E.K. Pratter  
GENE E.K. PRATTER  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
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**CRIMINAL ACTION**  
  
**NO. 17-645-1**

**ORDER**

**AND NOW** this 17th day of December, 2018, upon consideration of Defendant James Williams’ Motion to Suppress (Doc. No. 30), the Government’s Response (Doc. No. 38), Mr. Williams’ Reply (Doc. No. 51), the Government’s Amended Response (Doc. No. 58), and Mr. Williams’ Proposed Findings of Fact and Conclusions of Law (Doc. No. 59), and following an evidentiary hearing on September 7, 2018 and an oral argument on November 20, 2018, **it is ORDERED** that Mr. Williams’ Motion to Suppress (Doc. No. 30) is **DENIED**.

BY THE COURT:

/s/ Gene E.K. Pratter  
GENE E.K. PRATTER  
UNITED STATES DISTRICT JUDGE