

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

UNITED STATES OF AMERICA

CRIMINAL ACTION

v.

No. 19-CR-0348-1

**SUNNY SOK
#77311-066
F.D.C. PHILADELPHIA
7TH & ARCH STREETS
PHILADELPHIA, PA. 19106**

Goldberg, J.

April 13, 2020

MEMORANDUM OPINION

The primary question in this case is whether the City of Philadelphia’s Live Stop Policy obviates what would otherwise likely be a Fourth Amendment violation. This issue is raised through the inevitable discovery doctrine and Defendant Sonny Sok’s motion to suppress evidence that was obtained from his vehicle, which he was driving with an expired registration.

I. BACKGROUND

Before setting forth my findings of fact, I start with a brief overview of the Philadelphia Live Stop Policy. Pursuant to 75 Pa. C.S.A. § 6309.2(a)(2), the Pennsylvania Motor Vehicle Code permits law enforcement officers, in the interest of public safety, to direct that a vehicle be towed when an officer confirms that the car lacks a valid registration. The Philadelphia Police Department set forth its Live Stop Policy in Directive 12.8. (See United States’ Sec. Supp. Resp. to Def.’s Mot. to Suppress, Ex. A, ECF No. 36-1.) The Live Stop Policy mandates that any car

being operated in violation of 75 Pa. C.S.A. § 6309.2, such as one lacking valid registration, shall be impounded in accordance with the procedures set forth in the policy.

As described in greater detail infra, the United States Court of Appeals for the Third Circuit has examined Philadelphia's Live Stop Policy and found that warrantless searches of impounded vehicles under that policy are proper when "conducted according to standardized criteria and consistent with the purpose of a non-investigative search." United States v. Mundy, 621 F.3d 283, 287 (3d Cir. 2010). The court further concluded that such searches may permissibly extend to closed containers within a vehicle. Id. at 293. Thus, if properly followed, the Live Stop Policy prevents suppression of evidence where an otherwise constitutionally-defective search has occurred.

The impact of the Live Stop Policy is vividly illustrated in the present case, where evidence seized from an otherwise questionable search will not be suppressed pursuant to the Live Stop Policy and the inevitable discovery doctrine. As will be explained in greater detail below, under the inevitable discovery doctrine, even if an unlawful search occurs, if evidence obtained during that search would have been lawfully discovered otherwise, suppression of the evidence is not warranted.

II. FINDINGS OF FACTS

On December 16, 2019, I held a hearing on Sok's Motion to Suppress. The Government presented the testimony of the arresting officer, Joseph Mason. Sok presented the testimony of Dr. Anita Bost, a forensic scientist with the Philadelphia Police Department, and Jake O'Donnell, a litigation support paralegal with the Philadelphia Public Defender Office. After review of this testimony, I find the following facts:

A. The Stop of Sok's Vehicle

1. On April 24, 2019, Officer Joseph Mason was on patrol in the Second Philadelphia Police District when he observed a silver Saturn Outlook make an illegal right turn at a red light near the intersection of Summerdale Avenue and Oxford Avenue in Philadelphia, Pennsylvania. (Supp. Hr'g Tr. 10–11, Dec. 16, 2019.)
2. Officer Mason, who was driving a marked police vehicle, activated his lights and sirens and pulled over the Saturn. (Id. at 11.) It is undisputed that Sok owned and was operating the vehicle and was its sole occupant. (Id. at 12.)
3. Once Sok stopped on the side of the road, Officer Mason conducted a check of the vehicle and its owner through the Pennsylvania Department of Motor Vehicles and the National Crime Information Center. (Id. at 12–13.) The database returned with a notification that Sok's vehicle had an expired registration as of February 2019. (Id. at 12, 36.) The database also indicated that Sok had an outstanding warrant for a probation violation. (Id.) It was later determined that this warrant information was inaccurate in that no warrant was outstanding. (Id. at 67–68.)

B. Officer Mason's First Approach to Sok's Vehicle

4. Officer Mason approached the vehicle and confirmed Sok's identity. (Id. at 12.) Officer Mason then opened Sok's driver-side door and asked him to step outside. (Id.) Officer Mason notified Sok that there was an outstanding probation warrant for his arrest and that he intended to place Sok in handcuffs. (Id.)
5. While Sok exited his vehicle, Officer Mason stood at the end of Sok's open driver-side door. (Id. at 16, 40, 44.) Looking down, Officer Mason observed two bottles with black tops, standing upright inside the driver-side door pocket. (Id. at 16, 40, 42,

- 44.) Each bottle was about two-to-three inches tall and contained a purple liquid. (Id.) Officer Mason testified that the door's pocket remained open allowing him to partially see the bottles. (Id. at 44–45.) Officer Mason stated that the bottles were just shorter than the car-door pocket, but that he could see the purple color of the liquid inside of the bottles. (Id. at 19, 43–45.)
6. Officer Mason testified that he recognized the purple liquid to be “syrup” or “Promethazine syrup.” (Id. at 16, 41.) He explained that based upon his fourteen-years of experience working as a police officer in the Fourteenth Police District, he knew the syrup to be a controlled substance. (Id. at 41, 34.) Officer Mason acknowledged that he gained this knowledge in a different police district than where the stop of Sok occurred. (Id.) The officer explained that during his previous work in the Fourteenth District, he learned that it was very popular for individuals to mix Xanax or Percocet with Promethazine syrup, a mixture colloquially referenced as “pancakes and syrup.” (Id. at 16–17.)
7. Importantly, Officer Mason testified that he did not smell marijuana during this first interaction with Sok at his vehicle. (Id. at 51–52.)
8. When Sok stepped out of the vehicle, he repeatedly told the officer that the warrant was not valid. (Id. at 12.) Officer Mason handcuffed Sok, frisked him, and escorted him to the back seat of the police vehicle. (Id. at 20.) From Sok's person, Officer Mason recovered a small round pill container and a rubber container. (Id. at 20–21, 23.) Officer Mason did not open either container and placed each on the hood of his patrol car. (Id. at 20–21.) One of these containers—described as a small, green and

white rubberized container—was later confirmed to contain marijuana resin. (Id. at 27.)

C. Officer Mason’s Second Approach to and Search of Sok’s Vehicle

9. Once Sok was handcuffed in the back seat of the police vehicle, Officer Mason returned to Sok’s car to retrieve the two bottles in the driver-side door. (Id. at 47.) Officer Mason testified that this door had remained open from the moment that Sok exited his vehicle. (Id. at 21, 46.)
10. Upon retrieving the two bottles, Officer Mason testified that, for the first time during the entire incident, he smelled the odor of fresh marijuana, which he described as neither smoked nor burned. (Id. at 21, 94.) Officer Mason explained that he did not smell marijuana during his initial interaction at Sok’s car because he was concerned about his safety and securing Sok. (Id. at 51–52, 56–57.) Officer Mason explained that once Sok was in custody, he was more “relaxed” and thus able to smell the marijuana. (Id. at 57.) As will be detailed in ¶ 12, Officer Mason was allegedly able to smell and detect this unused marijuana through several layers of packaging. (Id. at 21, 23–26, 50–51.) Officer Mason testified that, based on the odor of marijuana, he decided to search the entire interior of the car. (Id. at 27, 31, 56–57.)
11. Officer Mason’s search began in the back seat, where he observed a zipped black backpack. (Id. at 21, 49–50, 53.) He retrieved the backpack, unzipped it, and observed a large pharmacy bottle with a label depicting “Promethazine” cough syrup, two additional two-to-three inch-high bottles with black caps containing purple liquid (which looked the same as the two bottles recovered from Sok’s driver-side door), and a bag of white crystals and powder. (Id. at 21, 23–26, 49–50.)

12. From inside the backpack, Officer Mason also retrieved a large plastic soup container with a lid affixed to the top. (Id. at 21–22, 50–51.) Inside of the soup container was a plastic bag containing a green leafy substance, which was later tested and determined to be roughly 40.2 grams of marijuana. (Id. at 21, 23–26, 50–51.) Officer Mason could not recall if the marijuana was in a vacuum-sealed bag, but confirmed that it was in some type of plastic bag stored inside of the closed soup container. (Id. at 51.) Officer Mason also testified that he recovered some unspecified amount of marijuana resin from the backpack. (Id. at 25.)
13. Officer Mason then searched the vehicle’s center console and found a revolver and a second closed soup container, which housed a bag of pills, a white power, and an off-white powder, which are set forth in the Government’s Exhibits 1-2 and 1-5. (Supp. Hr’g Tr. at 21–22.)

D. Status of the Probation Warrant

14. Thereafter, Officer Mason returned to his police vehicle and called the Probation Unit of the Municipal Court of the Philadelphia County Court of Common Pleas to verify the status of the probation warrant. (Id. at 54.) Officer Mason learned that the probation warrant was no longer outstanding and that the warrant had mistakenly remained in the computer system. (Id. at 32–33, 54–55.)
15. The parties stipulated that if Daphne Ramos, probation officer with the Philadelphia County Court of Common Pleas, had testified, she would have verified that on April 11, 2019, Sok was in her office and that, as of the date of the traffic stop on April 24, 2019, there was no outstanding probation warrant for Sok. (Id. at 67–68.)

E. Results of the Philadelphia Police Department Chemistry Laboratory

16. Dr. Anita Bost, a forensic scientist with the Philadelphia Police Department, analyzed the contents of the plastic bag that was stored in the closed soup container, which tested positive for marijuana. (*Id.* at 74–75, Defense Ex. 16 at 3.) Dr. Bost’s Chemistry Laboratory Report and her testimony established that this was the only green leafy substance that tested positive for marijuana, and that it was stored in a vacuum-sealed plastic bag. (Supp. Hr’g Tr. at 75, Defense Ex. 16 at 3.) Thus, although Officer Mason could not recall how the plastic bag was sealed (*See* ¶ 12, above), I find that the marijuana in question was, in fact, packaged in a vacuum-sealed plastic bag.

17. Dr. Bost also analyzed the contents of the four, two-to-three inch plastic bottles with black caps and the larger bottle labeled as “Promethazine” cough syrup, all of which contained a purple liquid. (*Id.* at 74–77, 80.) Dr. Bost found that the purple liquid in each of these containers was not a controlled substance, as Officer Mason initially believed. (*Id.* at 74, 80; Defense Ex. 16 at 1.)

F. The Philadelphia Police Department Live Stop Policy

18. Officer Mason testified about the Philadelphia Live Stop Policy. (Supp. Hr’g Tr. at 27–31.) In relevant part, he explained that when a driver is operating a vehicle in Philadelphia and that vehicle lacks a valid registration, the Live Stop Policy requires officers to impound the vehicle and conduct an inventory search of its contents prior to towing. (*Id.*)

19. Officer Mason acknowledged that his search of Sok’s vehicle was not an inventory search in accordance with the Live Stop Policy, but rather was undertaken because he

smelled marijuana. (Id. at 27, 31, 56–57.) Nonetheless, he testified that as a matter of course, before towing Sok’s vehicle due to its expired registration, he would have searched the entire vehicle through an inventory search pursuant to the Live Stop Policy. (Id. at 47.)

F. Testimony of Jake O’Donnell

20. Jake O’Donnell, a litigation support paralegal with the Philadelphia Federal Community Defender Office, testified about his observations of the evidence obtained from Sok’s vehicle. (Id. at 82–85.) Mr. O’Donnell stated that on October 30, 2019, he accompanied defense counsel to the United States Attorney’s Office to examine “a plastic bag containing different jars and packages and drugs” recovered during the search in question. (Id. at 82–84.) He explained that he was unable to smell marijuana while the bag sat undisturbed on the table. (Id. at 84.) However, once defense counsel picked up the bag and “manipulated” it to better view its contents, Mr. O’Donnell was able to smell “whiffs” of marijuana. (Id. at 85.)

III. LEGAL ANALYSIS

Many of the facts before me are not in dispute. The parties agree that the traffic stop was valid. They also agree that the probation warrant that Officer Mason initially relied upon was in error, such that no valid warrant was outstanding for Sok at the time of the April 24, 2019 traffic stop. In fact, for purposes of my probable cause to search analysis, the parties agree that the probation warrant had no impact on the legality of Officer Mason’s search of Sok’s vehicle. (Govt.’s Supp. Resp. to Mot. to Supp. at 9–10, ECF No. 30.) And finally, it is not disputed that the alleged illegal “pancakes and syrup” substance that Officer Mason observed in the side pocket of the vehicle, before he conducted the search, was not in fact an illegal substance. (Supp. Hr’g Tr. at 74, 80.)

That said, the primary dispute before me is: (1) whether Officer Mason smelled marijuana in Sok's vehicle, thus, establishing probable cause to conduct the warrantless search; and (2) whether the Philadelphia Live Stop Policy and inevitable discovery doctrine are applicable.

A. The Search of Sok's Vehicle and Smell of Marijuana

"The Fourth Amendment prohibits unreasonable searches and seizures, and searches without a warrant are presumptively unreasonable." United States v. Mathurin, 561 F.3d 170, 173 (3d Cir.2009). "As a general rule, the burden of proof is on the defendant who seeks to suppress evidence." United States v. Johnson, 63 F.3d 242, 245 (3d Cir. 1995). The defendant can satisfy its burden by establishing that the search was conducted without a warrant. Id. From there, the burden shifts to the government to establish that the search was supported by probable cause. United States v. Donahue, 764 F.3d 293, 301 (3d Cir. 2014).

Specifically, "[t]he automobile exception permits vehicle searches without a warrant if there is probable cause to believe that the vehicle contains evidence of a crime." Donahue, 764 F.3d at 299–300 (quotation marks and citation omitted). The government bears the burden of establishing the applicability of the automobile exception by a preponderance of the evidence. Id. (quotation marks and citations omitted). It is well settled that "the smell of marijuana alone, if articulable and particularized, may establish not merely reasonable suspicion, but probable cause." United States v. Ramos, 443 F.3d 304, 308 (3d Cir. 2006); see also United States v. Henley, 941 F.3d 646, 653 (3d Cir. 2019); United States v. Green, 897 F.3d 173, 186 (3d Cir. 2018).

Sok argues that the warrantless search of his car was not supported by probable cause because Officer Mason did not and could not have smelled the odor of marijuana the second time

he approached the vehicle. Sok urges that it is inconceivable that, despite not having smelled marijuana during his first interaction at Sok's vehicle, Officer Mason suddenly smelled it during his second approach to the vehicle and was able to do so through several layers of packaging. Sok emphasizes that the car door remained open prior to the second interaction, thus allowing any alleged odor to dissipate.

In summarizing the Government's position on probable cause to search, I initially note that the Government does not rely upon the two bottles in the driver-side door. (Govt.'s Supp. Resp. to Mot. to Supp. at 6, ECF No. 30 (“[I]t was not the bottles that led Officer Mason to search the defendant's vehicle; instead, it was the odor of marijuana that he smelled when he returned to the defendant's vehicle that led him to search the vehicle.”)) The Government's concession is proper because the bottles could not establish probable cause for the search pursuant to the plain view doctrine. Minnesota v. Dickerson, 508 U.S. 366, 375 (1993) (Under that doctrine, officers may make a warrantless seizure of an object “if police are lawfully in a position from which they view an object, if its incriminating character is immediately apparent, and if the officers have a lawful right of access to the object. . . .”)¹

¹ Even assuming that two of the three requirements of the plain-view doctrine set out in Dickerson were met—that Officer Mason was lawfully in a position from which he viewed the two bottles and he had a lawful right of access to the bottles—I would still have serious reservations as to whether the two bottles were “immediately apparent” as contraband. Officer Mason's testimony about his past work experience and his observations of the bottles and purple liquid contained therein (which was later confirmed not to be a controlled substance) was very limited, especially when compared with other cases in which the “immediately apparent” requirement of the plain view doctrine was satisfied. In these cases, the record contained substantially more facts about the officers' experiences and circumstances of the traffic stops. See, e.g., United States v. Jones, 503 Fed. Appx. 174, 177 (3d Cir. 2012) (finding that the incriminating nature of bricks of heroin, recovered during a traffic stop, was immediately apparent and denying a motion to suppress based, in part, on detailed testimony about the officer's prior experience, description of the incident giving rise to the officer's access to the heroin, and a description of the heroin's packaging); United States v. Bowra, No. 16-161, 2018 WL 1244521, at *19 (W.D. Pa. Mar. 9, 2018) (finding that the incriminating nature of a crack

Although the Government acknowledges that it does not rely on the bottles to support probable cause, it explains that the bottles provided Officer Mason with a reason to return to the car based on his reasonable suspicion that Sok's vehicle contained an illegal substance. This led to the second interaction and Officer Mason's alleged detection of marijuana, which according to the Government, justified the full search of the backpack, the center console, and all of the containers in each.

My review of the entire factual record raises concerns regarding Officer Mason's alleged belated detection of marijuana. First, in his initial interaction with the vehicle, Officer Mason did not smell marijuana. This interaction was somewhat involved and included the driver-side door being opened, Officer Mason standing in the open driver-side door as Sok stepped out of the vehicle, and a frisk of Sok on the side of the vehicle. Much of these interactions occurred directly next to the open driver-side door, which would have allowed Officer Mason to smell any marijuana within the vehicle. As noted above, when Officer Mason escorted Sok back to his police car, the driver-side door remained ajar, presumably allowing any odor in the vehicle to air out and dissipate.

According to Officer Mason, his second visit to the vehicle allowed for his detection of marijuana because he was more "relaxed." This newfound odor of unsmoked marijuana allegedly emanated from a vacuum-sealed bag, stored inside of a plastic soup container, secured with a lid, and placed within a closed and zipped-up backpack on the back seat of Sok's car. Put another way, in order for the Government to establish probable cause, the newfound odor in question would have had to penetrate several containers and a closed backpack. And this

pipe and large amount of currency, recovered during a traffic stop, was immediately apparent and denying a motion to suppress was based, in part, on the description of the defendant's suspected drug activity and the defendant's nervous behavior).

detection had to have occurred after the door to the vehicle remained open in between Officer Mason's first and second interactions at Sok's car.²

It is true that a small amount of marijuana resin was also found in a green and white container in Sok's pocket, but, as noted above, that container was removed and placed on the car after Sok exited the vehicle. Officer Mason clearly stated that the odor came from inside of the car.

While Officer Mason testified that he also recovered marijuana resin from the backpack in the back seat, his testimony was entirely unclear as to how the resin was packaged, where it was situated, or the quantity that was present. The Government claims that four glass jars were also recovered during this traffic stop for an approximate total of 179 grams of this "resin." (Govt.'s Supp. Resp. to Mot. to Supp. at 4, n.1, 8, ECF No. 30.) But Officer Mason never testified about these four glass jars, and neither Officer Mason nor Dr. Bost testified as to the volume of marijuana resin recovered. In fact, Dr. Bost's Chemical Laboratory Report does not list the weight, volume, or quantity for the substance identified as "Tetrahydrocannabinol," which the Government describes as marijuana resin. (Defense Ex. 16 at 2-3.) Because there is no evidence in the hearing record as to the volume of the marijuana resin, it is unclear how the "resin" amounted to 179 grams as the Government claims.³ Therefore, I find that the

² The testimony by Jake O'Donnell, a paralegal with the Philadelphia Federal Community Defender Office, seemed to provide some support for Sok's position that the officer was unable to smell marijuana within the layers of packaging. However, Mr. O'Donnell's review of the physical evidence occurred six months after the traffic stop. Thus, while I find that his testimony supports the notion that the marijuana smell was not detectible to Officer Mason, I do not find his belated review of the evidence particularly compelling.

³ Because the hearing record was so unclear regarding this "resin," I issued an Order, on April 7, 2020, asking the Government to clarify and explain its assertion that 179 grams of marijuana resin were recovered during the search. (Order, April 7, 2020, ECF No. 37.) In response, the Government submitted twenty (20) pages of documents, including a Philadelphia Police Department Investigation Report, multiple property receipts, an incident report, an arrest

Government has not established that the marijuana resin could have or did contribute to Officer Mason's alleged detection of a marijuana odor.

Given the evidence of record, I conclude that the Government has not satisfied its burden of establishing that the search of Sok's vehicle was supported by probable cause.

My inquiry, however, does not end at this juncture. Even if I were to find that the search of Sok's vehicle was unconstitutional, I must consider whether the application of the Philadelphia Live Stop Policy and inevitable discovery doctrine provides a safety net for any potential constitutional violation. Doing so, I conclude that suppression of the physical evidence recovered from Sok's vehicle is not warranted.

B. Philadelphia's "Live Stop" Policy and the Inevitable Discovery Doctrine

The inevitable discovery doctrine is an exception to the Fourth Amendment's warrant requirement and "permits the introduction of evidence that inevitably would have been discovered through lawful means, although the search that actually led to the discovery of the evidence was unlawful." United States v. Herrold, 962 F.2d 1131, 1140 (3d Cir. 1992) (emphasis omitted). "If the prosecution can establish by a preponderance of the evidence that the information ultimately or inevitably would have been discovered by lawful means[,] . . . then the deterrence rationale has so little basis that the evidence should be received." Nix v. Williams, 467 U.S. 431, 444 (1984). The government can meet its burden under this doctrine if it

report, and a ballistics report. Defense counsel strenuously objected, noting that none of these documents were entered into evidence in the hearing record.

Because none of these documents are of record, they cannot be considered. In any event, while some of the documents submitted do mention 179 grams of marijuana resin as being contained within four glass jars and a green and white rubber container, none clarify the volume housed in each of those five containers. While the green and white container matches the description of the container that Officer Mason recovered from Sok's person, there is no testimony or evidence in the hearing record about the existence or volume of the four other glass jars of marijuana resin.

“establishes that the police, following routine procedures, would inevitably have uncovered the evidence.” United States v. Vasquez De Reyes, 149 F.3d 192, 195 (3d Cir. 1998). “[T]he Supreme Court made clear in Nix[, 467 U.S. at 444] that the analysis [under the inevitable discovery doctrine] should focus upon the historical facts capable of ready verification, and not speculation.” Vasquez De Reyes, 149 F.3d at 195 (citing Nix, 467 U.S. at 444, n.5).

Here, the “routine procedure” on which the Government relies for its invocation of the “inevitable discovery” doctrine is the Philadelphia Live Stop Policy. The Live Stop Policy falls under Philadelphia Police Department’s Directive 12.8. The Live Stop Policy articulates the procedures necessary to enforce the impoundment provisions of Pennsylvania Vehicle Code, 75 Pa. C.S.A. § 6309.2. In relevant part, 75 Pa. C.S.A. § 6309.2(a)(2) provides:

If a motor vehicle . . . for which there is no valid registration or for which the registration is suspended, as verified by an appropriate law enforcement officer, is operated on a highway or trafficway of this Commonwealth, the law enforcement officer shall immobilize the motor vehicle or combination or, in the interest of public safety, direct that the vehicle be towed . . .

Id.

Section 2(B) of the Live Stop Policy directs that “[a]ll vehicles being operated in violation of Pennsylvania Vehicle Code §6309.2 shall be impounded” and enumerates the numerous step-by-step procedures for impoundment. Importantly, as it relates to the Fourth Amendment issues before me, the Live Stop Policy requires that the officer conduct an inventory search of the vehicle before it is towed. The Policy sets forth other tasks that must be accomplished while impounding the vehicle, such as calling a tow truck operator, completing a towing report, and issuing traffic citations.

Sok urges that the Live Stop Policy should not override the illegality of Officer Mason’s search because Officer Mason testified that he was not acting pursuant to this policy. Sok

contends that because Officer Mason did not conduct an inventory search in accordance with the Philadelphia Police Department's Policy, the inevitable discovery exception to the Fourth Amendment's exclusionary rule should not apply.

The Government responds that, even if I were to disbelieve Officer Mason's testimony regarding the alleged odor of marijuana, the physical evidence in Sok's car would have inevitably been discovered pursuant to an inventory search because: (1) the Live Stop Policy requires Philadelphia police officers to impound and inventory cars that lack valid registration, (2) Officer Mason was aware of this policy, (3) Officer Mason learned that Sok's vehicle registration had expired in February 2019, (4) Officer Mason testified that he would have acted pursuant to Live Stop Policy to impound and inventory Sok's vehicle, and (5) pursuant to Mundy, 621 F.3d 283, Officer Mason would have permissibly searched the vehicle's closed containers in which the narcotics and firearm were discovered.

I find merit to the Government's position. The United States Supreme Court has determined that warrantless searches of automobiles impounded or otherwise lawfully in police custody are reasonable under the Fourth Amendment when such searches are conducted "pursuant to standard police procedures." S. Dakota v. Opperman, 428 United States 364, 372 (1976).

In United States v. Mundy, 621 F.3d 283, the Third Circuit analyzed an earlier version of the Philadelphia Live Stop Policy that is substantively similar to the one in effect during Sok's traffic stop. There, a police officer conducted an inventory search, pursuant to the Live Stop Policy, once the officer confirmed that the defendant was driving an unregistered vehicle. Id. at 291. After the defendant provided the officer with a key to the vehicle's locked trunk, the officer unlocked the trunk and found a closed shoebox, which was opened and contained narcotics. Id.

at 286. Mundy moved to suppress the narcotics, arguing that because the Live Stop Policy does not explicitly address how officers are to treat closed containers during inventory searches, the officer was not permitted to open and search the closed shoebox. Id. at 288. The district court denied Mundy's motion. Id. at 294.

The Third Circuit affirmed, holding that even though not explicitly articulated in the Live Stop Policy, officers are permitted, when conducting an inventory search in accordance with the policy, to search closed containers found inside the car. Id. at 291. The court reasoned that the Live Stop Policy "sufficiently regulates the scope of the search, directing investigating officers to search all accessible areas of the vehicle (including the trunk), provided that they are not forced open, to determine if they contain "any . . . personal property of value," or other effects. . . . A search of unlocked containers that may hold such property or effects, as happened here, falls comfortably within the [Philadelphia Police Department] Live Stop Policy's general directive, and therefore does not violate the Fourth Amendment." Id. The Third Circuit concluded that the Live Stop Policy articulated a constitutional inventory search protocol because it "provided sufficiently standardized criteria regulating the scope of a permissible inventory search [,] including searches of closed containers." Id. at 293.

The facts in Mundy are different from the present case because the officer in Mundy was conducting an inventory search under the Live Stop Policy, while Officer Mason's search was based on his belief that probable cause existed. Nonetheless, the inevitable discovery doctrine prevents the suppression of the physical evidence recovered from Sok's vehicle. Officer Mason was aware of the Live Stop Policy and was able to describe its mandates, particularly his required duty to conduct an inventory search of all vehicles being impounded pursuant to this policy. In accordance with this policy, Officer Mason would have inevitably conducted an

inventory search, which under Mundy, would have included a permissible search of the closed containers in the car—including the closed backpack and center console. Even though Officer Mason did not perform any of the standardized procedures dictated by the Live Stop Policy during the traffic stop, he testified that, regardless of the probable cause search that he conducted, he *would have* searched the entire vehicle for an inventory search, pursuant to the Live Stop Policy. Therefore, Officer Mason's inventory search would have permissibly extended to the closed containers in which the narcotics and firearm were discovered, including the closed backpack and center console. Mundy, 621 F.3d at 291.

Thus, even if the search of Sok's vehicle was unconstitutional, the narcotics and firearm in Sok's vehicle would have been inevitably discovered through the Live Stop Policy.

IV. CONCLUSION

For the reasons set forth above, Sok's Motion to Suppress Physical Evidence will be denied. An appropriate order follows.

