

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TONY LADELL RICHARDSON,

Defendant-Appellant.

UNPUBLISHED

June 4, 1999

No. 208181

Washtenaw Circuit Court

LC No. 96-005656 FH

Before: Fitzgerald, P.J., and Doctoroff and White, JJ.

PER CURIAM.

Defendant was convicted by a jury of possession of a controlled substance, 50 to 224 grams, MCL 333.7403(2)(a)(iii); MSA 14.15(7403)(2)(a)(iii), and was sentenced to ten to forty years' imprisonment. Defendant appeals as of right. We affirm.

This case arose out of a routine traffic stop for speeding during which the police officer ascertained that defendant, the driver of the vehicle, had a suspended license and outstanding traffic warrants. Defendant was arrested, and his vehicle was towed and impounded at the Ann Arbor Police Station. During an inventory search of the vehicle, the officer discovered heroin wrapped in electrical tape, inside a Noodleroni box, in a bag of groceries.

On appeal, defendant asserts that the trial court clearly erred in denying defendant's motion to suppress the evidence obtained during the alleged inventory search because the officer exceeded the scope of an inventory search as provided for in the department's written policy, and thus turned the search into an investigation. A trial court's decision following a suppression hearing usually will not be reversed unless it is clearly erroneous. *People v Burrell*, 417 Mich 439, 448; 399 NW2d 403 (1983). Further, we review constitutional issues de novo. *People v Houstina*, 216 Mich App 70, 73; 549 NW2d 11 (1996).

The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution protect persons from unreasonable searches and seizures absent a warrant based on probable cause. US Const, Am IV; Const 1963, art 1, § 11; *Houstina, supra*, 216 Mich App 73. An exception to this requirement is the "inventory search," which allows inventory searches of arrested

persons or impounded motor vehicles when conducted in accordance with established departmental procedures that all police officers are required to follow. *People v Toohey*, 438 Mich 265, 279, 284; 475 NW2d 16, remanded on other grounds 438 Mich 1202; 475 NW2d 29 (1991). The reasonableness of a seizure depends on the existence of an established departmental procedure and the absence of pretext for conducting a criminal investigation. *Toohey, supra* at 284.

Defendant first argues that the officer did not follow the Ann Arbor Police Department (AAPD) policy because the type of “container” addressed in the AAPD policy is one that, by design, contains other objects (e.g., suitcases, briefcases, tool boxes), not just any object that could possibly contain another. However, a review of the AAPD policy reveals that it requires a *thorough* search and mandates that *all containers* be opened if the contents cannot be determined from the exterior. Although the policy contains examples of containers, there is no indication that this list is exclusive, nor is it reasonable to infer such because *all* containers are to be opened and inspected for valuables where the contents are not readily discernible.

Defendant next argues that, in light of the officer’s suspicion that the vehicle contained drugs, the officer exceeded the scope of the inventory search authorized by the AAPD’s written policy and was conducting an investigation at the time he pierced the object containing the heroin. We disagree. Reasonable police regulations relating to inventory procedures administered in good faith satisfy the Fourth Amendment. *Colorado v Bertine*, 479 US 367, 374; 107 S Ct 738; 93 L Ed 2d 739 (1987). Hence, evidence is admissible where there was no showing that the police, who were following standardized procedures, acted in bad faith or for the sole purpose of investigation. *Id.* at 479 US 372. Here, the officer testified that although he suspected that the egg-shaped object contained drugs, he did not know the contents of the object. Pursuant to the AAPD policy of ascertaining the contents of all containers, the officer made a slit in the object to ascertain its contents. Under these circumstances, the officer’s subjective suspicion that the object contained drugs does not invalidate the inventory search conducted in accordance with established inventory procedures.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Martin M. Doctoroff

/s/ Helene N. White