


IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN CLARK TUCKER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58690

FILED

DEC 17 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of possession of a controlled substance for the purpose of sale. Fourth Judicial District Court, Elko County; Michael Memeo, Judge.

Appellant Ryan Clark Tucker entered a conditional guilty plea reserving the right to challenge the denial of his pretrial motion to suppress evidence. *See* NRS 174.035(3). Tucker asserts that “[i]n Nevada, two factors must exist before the automobile warrant exception applies: (1) probable cause to believe that the vehicle contains contraband, and (2) exigent circumstances exist sufficient to dispense with the need for a warrant.” And Tucker argues that there were no exigent circumstances to justify the warrantless search of his automobile.

During the pendency of Tucker’s appeal, we revisited our automobile-exception jurisprudence. *State v. Lloyd*, 129 Nev. \_\_\_, 312 P.3d 467 (2013). We noted that the U.S. Supreme Court has made it clear

that “[t]he automobile exception does not have a separate exigency requirement: If a car is readily mobile and probable cause exists to believe it contains contraband, the Fourth Amendment . . . permits police to search the vehicle without more.” *Id.* at \_\_\_, 312 P.3d at 470 (internal quotation marks omitted) (omission in original) (quoting *Maryland v. Dyson*, 527 U.S. 465, 467 (1999)). We concluded “that our state constitution compels no different automobile exception to its warrant requirement than the Fourth Amendment does.” *Id.* at \_\_\_, 312 P.3d at 473. And we disapproved of our prior automobile-exception decisions “to the extent that they establish exigency as a separate requirement of the automobile exception under the Nevada Constitution.” *Id.* at \_\_\_, 312 P.3d at 474.

Here, the district court conducted an evidentiary hearing and found that Tucker was traveling on I-80 and was pulled over for a minor traffic offense, the highway patrol officer noticed a faint odor of marijuana and requested a drug dog, “the drug dog sniff occurred well within the time reasonably anticipated to conduct a brief investigation and complete the writing of the traffic ticket,” and the drug dog’s alert gave the officer probable cause to believe that controlled substances were in the automobile. The district court’s findings are supported by the record and are not clearly wrong. Because the car was readily mobile and probable cause existed to believe it contained contraband, the automobile exception to the warrant requirement justified the search.

