

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Remanded on August 12, 2026

FILED

09/22/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. TORRIAN SEANTEL BISHOP

Appeal from the Circuit Court for Obion County
No. CC-22-CR-22 Jeffrey Parham, Judge

No. W2023-00713-CCA-R3-CD

The Defendant, Torrian Seantel Bishop, negotiated a plea agreement with the State under which he entered a conditional guilty plea to unlawful possession of a weapon and theft of property but reserved for appellate review a certified question, pursuant to Rule 37(b)(2) of the Tennessee Rules of Criminal Procedure, regarding whether officers had probable cause to search his car. *See State v. Torrian Seantel Bishop*, No. W2023-00713-CCA-R3-CD, 2024 WL 1564346 (Tenn. Crim. App. Apr. 11, 2024) (*Bishop I*), *case remanded* (Tenn. Aug. 27, 2024). We concluded that the certified question was dispositive and that the officers had probable cause to conduct a warrantless search of the Defendant's car based upon the officer's smelling the odor of marijuana in the Defendant's car. The Tennessee Supreme Court remanded the case for us to reconsider our decision in light of its decision in *State v. Green*, holding that the smell of marijuana could be considered as a factor in a totality of the circumstances analysis when determining whether an officer had probable cause to conduct a warrantless search of a car. 697 S.W.3d 634, 644 (Tenn. 2024). Upon reconsideration, we determined that the certified question was not dispositive and dismissed the appeal. *See State v. Torrian Seantel Bishop*, No. W2023-00713-CCA-R3-CD, 2024 WL 4798895, at *4 (Tenn. Crim. App. Nov. 15, 2024) (*Bishop II*), *perm. app. granted* (Tenn. Mar. 14, 2025). On appeal of that decision, our supreme court clarified the requirements for certified questions of law reserved for appeal as part of a conditional guilty plea, reversed our opinion in *Bishop II*, and remanded the case for this court to consider the merits of the certified question. *See State v. Bishop*, --- S.W.3d ---, No. W2023-00713-SC-R11-CD, 2026 WL 2329478 (Tenn. 2026) (*Bishop III*). Upon this remand, we affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which ROBERT L. HOLLOWAY, JR., and JILL BARTEE AYERS, JJ., joined.

Bill Randolph, District Public Defender; Jessica F. Butler (on appeal), Assistant Public Defender-Appellate Division; and Damon E. Campbell (at suppression and guilty plea hearings), Assistant Public Defender, for the appellant, Torrian Seantel Bishop.

Jonathan Skrmetti, Attorney General and Reporter; Katherine C. Redding and Richard D. Douglas, Sr., Assistant Attorneys General; Colin Johnson, District Attorney General; Melinda Meador and Jerald Campbell, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

Our prior decision recites the facts established in the record.

This case relates to the November 5, 2021 traffic stop of the Defendant's car as a result of the Defendant's driving with a suspended driver's license. An officer at the scene indicated he detected the odor of marijuana in the car. Finding probable cause to search the vehicle as a result of the odor, the officers searched the car, which revealed a stolen handgun under the driver's seat. The Defendant filed a motion to suppress the handgun's seizure, contending that the officers lacked probable cause to search his vehicle. The Defendant did not challenge the vehicle stop. The trial court denied the motion to suppress.

. . . .

At the October 19, 2022 suppression hearing, Union City Police Officer Kyle Ross testified that he conducted a traffic stop of the Defendant's car after confirming with the police dispatcher that the Defendant was driving with a suspended driver's license. Officer Ross stated that he advised the Defendant of the reason for the stop, that Union City Police Sergeant Josh Rogers arrived on the scene, and that Sergeant Rogers indicated he smelled the odor of marijuana. Officer Ross stated that since having COVID, he had lost his sense of smell. Officer Ross said that when he asked the Defendant about the last time marijuana had been in the car, the Defendant answered, "It had been a minute." Officer Ross said that he removed the Defendant from the car, conducted a search of the car, found a handgun underneath the driver's seat, and determined that the handgun had been stolen. Officer Ross said that he was not aware that the Defendant was on probation or a felon at the time of the traffic stop.

On cross-examination, Officer Ross testified that he had probable cause to search the car solely as a result of the smell of marijuana and that it was not a consensual or probation search. Officer Ross said that the traffic stop occurred early in the morning and that he wore a body camera. Officer Ross stated that the Defendant got out of the car when asked and that a pat down of the Defendant did not reveal any marijuana. Officer Ross told the Defendant that the Defendant could leave if the search of the car did not reveal anything of concern. Officer Ross acknowledged that he did not find any marijuana in the car. Officer Ross stated that after the Defendant's arrest, Sergeant Rogers transported the Defendant to the police station and that the Defendant's vehicle was towed from the scene.

A copy of Officer Ross's body camera video recording was played at the hearing and was received as an exhibit. The recording is consistent with the testimony. The Defendant's probation order was received as an exhibit, according to which the Defendant agreed to a warrantless search of his car by a law enforcement officer at any time.

Bishop I, 2024 WL 1564346, at *1-2.

On May 1, 2023, the Defendant entered a best-interest guilty plea to unlawful possession of a weapon and theft of property. *See North Carolina v. Alford*, 400 U.S. 25 (1970). The Defendant reserved a certified question of law to which the State and the trial court consented and certified as dispositive of the case. *See* Tenn. R. Crim. P. 37(b)(2)(A). The Defendant's certified question is as follows:

Whether under the Fourth Amendment to the U.S. Constitution and Article I, section 7 of the Tennessee Constitution, law enforcement possessed probable cause to search the Defendant's automobile without a warrant based exclusively on the allegedly plain smell of marijuana, when the officer claiming to have probable cause to search the automobile admittedly could not distinguish the smell of marijuana from the smell of hemp, the possession of hemp was legalized on April 4, 2019 by the passage of Senate Bill No. 357 as Public Chapter 87 in the 2019 Session of the 111th Tennessee General Assembly, and the traffic stop and automobile search in this case occurred on November 5, 2021?

Tennessee Criminal Procedure Rule 37(b)(2)(A) provides that an appeal can be taken from a plea of guilty if the Defendant enters into a plea agreement and explicitly reserves, with the consent of the State and the trial court, a certified question of law that is dispositive of the case. Tenn. R. Crim. P. 37(b)(2)(A)(i)-(iv); *see State v. Armstrong*, 126 S.W.3d 908 (Tenn. 2003). "An appellate court's duty is to determine whether the certified

question is dispositive *on the record before it.*” *State v. Dailey*, 235 S.W.3d 131, 135 (Tenn. 2007) (emphasis in original). The court must also “consider the certified question within the context of the governing legal framework.” *Bishop III*, ---S.W.3d at ---, 2026 WL 2329478, at *13. A certified question is dispositive when it “require[s] a reviewing court either to affirm the judgment of conviction or to reverse and dismiss the charges.” *Id.* at *12 (citing *Dailey*, 235 S.W.3d at 134). The fact that the defendant, the State, and the trial judge have agreed the issue is dispositive does not bind this court. *State v. Preston*, 759 S.W.2d 647, 651 (Tenn. 1988). The certified question must also clearly identify “the scope and limits of the legal issue reserved.” Tenn. R. Crim. P. 37(b)(2)(A)(ii). If the appellate court determines that a certified question is not dispositive, the court “must vacate the judgment of the trial court and remand to give the defendant the opportunity to withdraw the guilty plea.” *Bishop III*, --- S.W.3d at ---, 2026 WL 2329478, at *11. “[W]hether a certified question is dispositive of the case is a question of law that an appellate court reviews de novo.” *Id.*

Our supreme court determined that the certified question in this case was dispositive “because either: (1) the State is correct, and the facts in the record will show that probable cause existed under the totality of the circumstances; or (2) the Defendant is correct, and the facts in the record will not show that probable cause existed under the totality of the circumstances.” *Id.* at *13. Accordingly, we will address whether the totality of the circumstances provided probable cause for the officers to conduct a warrantless search of the Defendant’s car.

The Defendant contends that the officers lacked probable cause to search his car because “the record revealed . . . that the sole circumstance supporting the warrantless search in this case was the smell of marijuana.” *Id.* at *4. The State counters that the officers had probable cause because an officer smelled marijuana and the Defendant made a statement suggesting that marijuana previously had been in the car. The parties do not dispute that a warrantless search and seizure occurred or that Sergeant Rogers smelled the odor of marijuana in the car.

A trial court’s findings of fact on a motion to suppress are conclusive on appeal unless the evidence preponderates against them. *State v. Odom*, 928 S.W.2d 18, 23 (Tenn. 1996); *State v. Jones*, 802 S.W.2d 221, 223 (Tenn. Crim. App. 1990). Questions about the “credibility of the witnesses, the weight and value of the evidence, and resolution of conflicts in the evidence are matters entrusted to the trial judge as the trier of fact.” *Odom*, 928 S.W.2d at 23. The prevailing party is entitled to the “strongest legitimate view of the evidence and all reasonable and legitimate inferences that may be drawn from that evidence.” *State v. Keith*, 978 S.W.2d 861, 864 (Tenn. 1998); *see State v. Hicks*, 55 S.W.3d 515, 521 (Tenn. 2001). The trial court’s application of the law to its factual findings is a question of law and is reviewed de novo on appeal. *State v. Yeargan*, 958 S.W.2d 626, 629 (Tenn. 1997).

The Fourth Amendment to the United States Constitution and article I, section 7 of the Tennessee Constitution protect individuals from unreasonable searches and seizures. *See* U.S. Const. amend. IV; Tenn. Const. art. 1, § 7. Warrantless seizures are “presumed unreasonable, and evidence discovered as a result thereof is subject to suppression unless the State demonstrates that the . . . seizure was conducted pursuant to one of the narrowly defined exceptions to the warrant requirement.” *State v. Yeargan*, 958 S.W.2d 626, 629 (Tenn. 1997); *see Coolidge v. New Hampshire*, 403 U.S. 443, 454-55 (1971); *State v. Binette*, 33 S.W.3d 215, 218 (Tenn. 2000).

Within the context of warrantless searches and seizures, a car may be searched without a warrant if probable cause exists for the search. *Chambers v. Maroney*, 399 U.S. 42, 48 (1970); *State v. Leveye*, 796 S.W.2d 948, 952 (Tenn. 1990). “[P]robable cause is a flexible, common-sense standard.” *Texas v. Brown*, 460 U.S. 730, 742 (1983) (plurality). It requires that the available facts provide a person ““of reasonable caution in the belief”” that an item that is evidence of a crime will be found. *Id.* (quoting *Carroll v. United States*, 267 U.S. 132, 162 (1925)); *State v. Banner*, 685 S.W.2d 298, 301 (Tenn. Crim. App. 1984). The odor of marijuana may “be considered in a totality-of-the circumstances analysis and may continue to contribute to a probable cause determination.” *State v. Green*, 697 S.W.3d 634, 643-44 (Tenn. 2024).

In *State v. Green*, an officer smelled the strong odor of pine tree fragrance in the defendant’s car, the officer observed a backpack that neither car occupant claimed to own, the occupants gave “suspicious answers” to the officer’s questions, and a drug-sniffing dog signaled the presence of illegal drugs in the car. *Id.* at 644-45. Relying on those facts, our supreme court determined that the officers had probable cause to conduct a warrantless search. *Id.* at 645. In so holding, the court noted that a defendant’s “[r]esponse[s] to questioning by police officers [are] a common source of probable cause determinations.” *Id.* (quotations and citations omitted).

Here, the record reflects that Officer Ross stopped the car in which the Defendant was driving because the Defendant had a suspended driver’s license, that Sergeant Rogers smelled the odor of marijuana in the Defendant’s car, and that, in response to Officer Ross’s questions, the Defendant made a “statement suggesting that marijuana previously had been in the car.” *See Bishop III*, ---S.W.3d at ---, 2026 WL 2329478, at *4. Based on the totality of the circumstances, we conclude that the facts available to the officers “would warrant a person of reasonable caution in the belief” that marijuana was present.¹ *Green*, 697 S.W.3d at 645. (quotations and citations omitted). The Defendant was driving unlawfully. The Defendant admitted to having had marijuana in the car, and the odor of marijuana was

¹ Possession of marijuana is a criminal offense in Tennessee. *See* T.C.A. § 39-17-418.

detected in the Defendant's car at the time of the traffic stop. The trial court did not err in its determination.

In consideration of the foregoing and the record as a whole, the judgments of the trial court are affirmed.

s/Robert H. Montgomery, Jr.
ROBERT H. MONTGOMERY, JR., JUDGE