IN THE COURT OF APPEALS OF IOWA

No. 1-806 / 01-0288
Filed December 28, 2001

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CLERK SUPREME COURT

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JAMES PAUL PUMPITUS,
Defendant-Appellant.

Appeal from the Iowa District Court for Woodbury County, Dewie J. Gaul, Judge (motion to suppress) and Mary Jane Sokolovske, District Associate Judge (trial).

James Pumpitus appeals from his conviction and sentence for possession of a controlled substance, methamphetamine, in violation of Iowa Code section 124.401(5) (1999). **AFFIRMED.**

Douglas Roehrich, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Mary E. Tabor, Assistant Attorney General, Constance Grignon, Student Legal Intern, Thomas S. Mullin, County Attorney, and Paige Peterson, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

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VAITHESWARAN, J.

James Pumpitus appeals his judgment and sentence for possession of methamphetamine, contending a police search that uncovered the drug was not incident to his arrest. We affirm.

I. Background Facts and Proceedings

A Department of Transportation enforcement officer noticed that a semi-tractor trailer had worn tire treads. He stopped the vehicle, identified Pumpitus as the driver, and ran a license check. The check revealed an outstanding warrant on Pumpitus for fifth-degree theft. The officer placed Pumpitus under arrest, handcuffed him, searched him, and seated him in his patrol car. He then proceeded to search the cab portion of the semi-tractor trailer. On the floorboard between the driver and passenger seats, the officer discovered an open bucket containing a syringe, a bent spoon, and a bag of what was later identified as methamphetamine.

The State charged Pumpitus with possession of methamphetamine. *See* Iowa Code § 124.401(5)(1999). Pumpitus moved to suppress the drugs and drug paraphernalia on the ground the search was not incident to his arrest. The district court denied the motion and, following a bench trial, found Pumpitus guilty. The court sentenced him to a jail term. This appeal followed.

II. Suppression Ruling

Pumpitus maintains that the officer's warrantless search of the cab violated his constitutional rights to be free of unreasonable searches and seizures. *See* U.S. Const., Amend. IV; Iowa Const. art. I, § 8. We review his contention de novo. *State v. Grant*, 614 N.W.2d 848, 852 (Iowa Ct. App. 2000).

Pumpitus concedes that a search incident to a valid arrest is a recognized exception to the warrant requirement. *See State v. Tolsdorf*, 574 N.W.2d 290, 292 (Iowa 1998). He further concedes that his arrest on the outstanding warrant was valid. His only contention is that the scope and timing of the subsequent search was unreasonable. *See State v. Derifield*, 467 N.W.2d 297, 299 (Iowa Ct. App. 1991). We are not persuaded by his argument.

A vehicle search is permissible even though the defendant is handcuffed or otherwise secured, and away from the car. *New York v. Belton*, 453 U.S. 454, 460, 101 S. Ct. 2860, 2864, 69 L. Ed. 2d 768, 775 (1981); *State v. Moriarty*, 566 N.W.2d 866, 869 (Iowa 1997); *State v. Dawdy*, 533 N.W.2d 551, 556 (Iowa 1995); *State v. Edgington,* 487 N.W.2d 675, 677-78 (Iowa 1992); *State v. Sanders*, 312 N.W.2d 534, 539 (Iowa 1981); *cf. Tolsdorf*, 574 N.W.2d at 292 (stating defendant's move into vehicle following arrest rendered vehicle search reasonable). Additionally, the arrest that is the basis for the search need not relate to the defendant's driving. *Tolsdorf,* 574 N.W.2d at 292. Finally, a vehicle search "need not necessarily follow directly on the heels of the arrest." *Derifield*, 467 N.W.2d at 299.

In light of these principles, the search here, made almost immediately after Pumpitus was arrested, handcuffed and secured in the patrol car, was constitutional. Accordingly, we affirm the district court's denial of Pumpitus' motion to suppress the drug evidence.

AFFIRMED.