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ST-2026-CR-00056

TAMARA CHARLES
CLERK OF THE COURT

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

vs.

RICALDO THOMAS,

Defendant.

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) **Case No. ST-2026-CR-00056**
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2026 VI Super 40

MEMORANDUM OPINION AND ORDER

¶ 1 **THIS MATTER** is before the Court following a suppression hearing that occurred on August 19, 2026, after Defendant Ricaldo Thomas filed a Motion to Suppress on May 26, 2026. The People of the Virgin Islands filed its Opposition on July 27, 2026. For the following reasons, Defendant's Motion to Suppress shall be granted.

FACTUAL AND PROCEDURAL BACKGROUND

A. Factual Background.

¶ 2 On Thursday, March 5, 2026, at approximately 10:20 am, Virgin Islands Police Department Officer Delvin Duggins Jr. and Officer Mikhail Woodley were in full uniform responding to an unrelated robbery in progress near Irvin 'Brownie' Brown Sr. Street. While in transit, Officer Duggins observed a grey Acura traveling at a high rate of speed that nearly struck the officers' police vehicle. In response, Officer Duggins activated his emergency lights, and pursued the Acura until it came to a stop on Louis Shulterbrandt Gade next to Muhsen Market. It should be noted that Defendant was not charged with speeding in this matter, rather Defendant was charged with Passing a Stop Sign in violation of 20 V.I.C. § 495(a).

¶ 3 Upon approaching the vehicle, Officer Duggins ordered the driver, Defendant Ricaldo Thomas, to lower his windows. As Defendant complied, Officer Duggins immediately detected a strong odor of marijuana emanating from the interior of the vehicle. This distinct odor served as the legal predicate for the initial search and is the reason that Officer Duggins ordered Mr. Thomas out of the vehicle. During the search, Defendant was detained by Officer Woodley. It is disputed as to the timing of when Defendant was read his Miranda warnings. Officer Woodley testified that Defendant made incriminating statements asking if the officers could just take the weed and let him go. The People, during the suppression hearing, did not put on Officer Woodley's bodycam as evidence nor fully develop a timeline of when the statements were uttered.

¶ 4 During the initial search of the front seat of the Acura, Officer Duggins discovered an opaque New Balance bag, that he searched, which contained several individually packaged baggies of a green leafy substance. He then paused the search to call Detectives to process the scene. Stemming directly from the initial marijuana predicate, a comprehensive inventory search of the vehicle continued upon backup arriving. Inside a second compartment of the New Balance bag, officers recovered additional baggies of a green leafy substance, unused baggies with an apple logo, and a digital scale, while discovering two loaded 6-round magazines hidden underneath the bag. A further search of the rear seat revealed a white opaque pillowcase containing three extra-large plastic bags of marijuana. Underneath the passenger seat, officers uncovered a black firearm with an obliterated serial number, loaded with one round in the chamber and a full 6-round magazine.

¶ 5 Following the discoveries, Defendant was arrested and subsequently charged with:

1. Failing to Stop at a Stop Sign in violation of V.I. CODE ANN. tit. 20 § 495(a);

2. Unauthorized Possession of a Firearm within One Thousand Feet of a School in violation of V.I.CODE ANN. tit. 14 § 2253(f);
3. Unauthorized Possession of a Firearm with Altered Identification Marks in violation of V.I. CODE ANN. tit. 23 § 481(b).
4. Unauthorized Possession of a Firearm in violation of V.I. CODE ANN. tit. 14 § 2253(a);
5. Unauthorized Possession of Ammunition in violation of V.I. CODE ANN. tit. 14 § 2256(a)(3);
6. Unauthorized Possession of a Controlled Substance with Intent to Distribute within One Thousand Feet of a School in violation of V.I. CODE ANN. tit. 19 § 604(b)(1)(A)(5)(a);
7. Unauthorized Possession of Marijuana with Intent to Distribute in violation of V.I. CODE ANN. tit. 19 § 604(a)(1); and
8. Possession of Drug Paraphernalia in violation of V.I. CODE ANN. tit 19 § 630(a).

B. Procedural Background.

¶ 6 Subsequently, Defendant filed his Motion to Suppress on May 26, 2026. The People filed their response to Defendant's Motion to Suppress on July 27, 2026. The Court on August 7, 2026, ordered that this matter would come on for a suppression hearing on Wednesday August 19, 2026 at 1:00 pm. Defendant on August 7, 2026, filed a Motion to Compel. This Motion sought to compel the People to turn over all body camera footage from all reporting officers as the footage that was turned over to defendant on June 5, 2026, all started from after Defendant was already detained and in handcuffs and was of other Officers who did not have primary contact with Defendant. On August 17, 2026, Defendant filed a Motion to Continue because the People had, only as of August

16, 2026, filed its Second Supplemental Discovery, and Defense Counsel had not had a chance to fully review it or speak to her client regarding its contents. On August 19, 2026, this matter came on for a suppression hearing. The Defendant renewed his Motion to Continue as he did not have a chance to review all the body camera footage that was turned over less than a week ago. The Court notes that the People were to have turned over all discovery within twenty-one (21) days of arraignment and the arraignment occurred on March 20, 2026. Defense Counsel did admit that she had reviewed the bodycam footage of the Officers that the People intended to introduce. So, after some technical difficulties the suppression hearing proceeded. The People called Officer Duggins and Officer Woodley to the stand. The Defense did not call any witnesses. The People were not able to get the audio to work on its video body camera exhibit. However, the People's argument after testimony primarily focused on what was discovered during the search rather than what the totality of the circumstances were that lead to the search, as they took the position that the smell of marijuana was sufficient to establish probable cause for a search. This mirrored their presentation of evidence which focused on the contents of the search rather than the lead up to the search. Further, the body camera video exhibit that was entered into evidence did in fact start after the Defendant had already been detained. Both Officers, Duggins and Woodley, during testimony, admitted to failing to follow the VIPD policy of turning their body cameras on at the outset of interactions with the public. At the conclusion of the hearing, the Court gave the parties until September 8, 2026, to submit additional argument and for the Defense to request an additional hearing. The People objected to the Defense being given an opportunity for a second hearing after evidence had already been presented. However, the Court stood by its ruling as it was the People's exceptionally late turning over of discovery that precipitated a potential need for a second hearing.

Neither party has submitted anything as of the date of this Memorandum Opinion and Order. No subsequent hearing was held.

THE FOURTH AMENDMENT: GENERAL LEGAL STANDARD

¶ 7 The Fourth Amendment to the Constitution of the United States states that: “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. The Fourth Amendment was made applicable to the U.S. Virgin Islands through Section 3 of the Revised Organic Act of 1954.

The Fourth Amendment proscribes all unreasonable searches and seizures, and it is a cardinal principle that “searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions.”

Mincey v. Arizona, 437 U.S. 385, 390 (1978) (internal citations omitted). When the police conduct a search or seizure without a warrant the burden is on the government to prove that an exception to the warrant requirement is applicable. *Nicholas v. People of the V.I.*, 56 V.I. 718, 738 (V.I. 2012) (internal citations omitted). “When evidence is obtained as a result of an unconstitutional search, the exclusionary rule requires that the fruits of that search be excluded from evidence at trial.” *Simmonds v. People*, 53 V.I. 549, 561 (V.I. 2010) (internal citations omitted).

ANALYSIS

A. There Was Reasonable Suspicion to Believe That Defendant Committed a Traffic Violation by Failing to Stop at a Stop Sign; Therefore, the Traffic Stop Was Reasonable.

¶ 8 The temporary detention of an individual during the stop of an automobile constitutes a “seizure” within the meaning of the fourth amendment. *Whren v. United States*, 517 U.S. 806, 809 (1996) (internal citations omitted). Accordingly, a traffic stop must be reasonable and as a general rule the decision to stop must be predicated on probable cause to believe that a traffic violation has occurred. *Id.* (internal citations omitted).

¶ 9 In this case, Officer Duggins testified that he pulled over Defendant because he was speeding. Officer Woodley who was the passenger in the vehicle testified that the reason they pulled over Defendant was because he ran a stop sign. Further, in the police report written by Officer Duggins the rationale was that Defendant ran a stop sign. Passing a Stop Sign is a violation of 20 V.I.C. § 495(a). The Defense did not put on any witnesses that argued that Defendant properly stopped at the stop sign or that a stop sign was not present. Therefore, there was reasonable suspicion to believe that a traffic violation had occurred. Accordingly, the Court finds that the initial seizure via the traffic stop was reasonable.

B. The Odor of Marijuana Alone Does Not Give Police Officer’s Probable Cause to Search an Automobile.

¶ 10 Under the automobile exception to the warrant requirement, law enforcement may seize and search an automobile without a warrant if probable cause exists to believe it contains evidence of criminal activity.” *Browne v. People of the V.I.*, 56 V.I. 207, 217 (V.I. 2012) (citations omitted). Whether probable cause exists is based on the totality of the circumstances. *Id.*

¶ 11 The Superior Court of the Virgin Islands, Division of St. Croix, dealt with an almost identical set of factual circumstances and in its analysis, ultimately concluded that the odor of marijuana without more is not enough to satisfy the probable cause requirement to search an automobile. *People v. Turnbull*, 2025 VI SUPER 26, ¶ 14. This was because the *Turnbull* Court

recognized that the possession of marijuana was recreationally legalized for adults in 2023 by the Cannabis Use Act, so the possession of marijuana is now a presumably legal activity. *Id.* The *Turnbull* Court's decision was not unique as the *Turnbull* Court cited to appellate courts from Michigan, Massachusetts and Vermont for the proposition that marijuana odor alone is not enough to establish probable cause for a search when marijuana possession is no longer fully criminalized. *Id.* ¶10 (citing *People v. Armstrong*, WL 994370, at *9 (Mich. 2025); *Commonwealth v. Rodriguez*, 37 N.E.3d 611, 620 (Mass. 2015); *Zullo v. State*, 205 A.3d 466, 502 (Vt. 2019)) (internal quotations omitted).

¶ 12 The *Turnbull* Court's analysis and the analysis of the courts of other jurisdictions cited in *Turnbull* is hardly surprising. The sensory perception whether it be smell or sight of something that has been legalized and is now presumptively innocent behavior cannot logically form the basis for probable cause. This conclusion has been reached both in jurisdictions with only medical or decriminalized marijuana and in jurisdictions with fully legalized marijuana possession. See *Commonwealth v. Barr*, 266 A.3d 25, 41 (Pa. 2021) (finding that Pennsylvania's Medical Marijuana Act made it so the smell of marijuana alone could not support probable cause for a search when the smell of marijuana could now indicate legal as well as illegal activity); *Baxter v. State*, 389 So. 3d 803, 809-811 (Fla. Dist. Ct. App. 2024) (finding that because marijuana is no longer fully illegal, the smell of marijuana can no longer make it immediately apparent that the marijuana smell is "emanating from an illegal source" under the plain smell doctrine and cannot be the sole basis for a search); *Lewis v. State*, 233 A.3d 86, 101 (Md. 2020) (finding that once Maryland decriminalized possession of certain limited amount of Marijuana, the smell of marijuana by itself could no longer indicate whether an individual was in possession of a criminal amount of marijuana); *People v. McKnight*, 2019 CO 36, ¶ 42 (noting that because marijuana is

legal in Colorado, individuals possess the same reasonable expectation of privacy when engaging in its possession as they do when possessing tobacco or alcohol); *State v. Moore*, 488 P.3d 816, 821 (Or. Ct. App. 2021) (finding that the “very strong” smell of marijuana is no longer remarkable given it is legal to possess and therefore without more the smell of marijuana does not support a reasonable suspicion that an individual possesses an illegal amount of marijuana).

¶ 13 In this case, the People’s presentation of evidence was almost exclusively focused on what was found after the search had already occurred. The People’s presentation of evidence missed the mark because the relevant inquiry is not what was found after an illegal search, but rather what circumstances lead to the search in the first place. *See Turnbull*, 2025 VI SUPER 26, ¶ 12 (“[T]he Court does “not evaluate probable cause in hindsight, based on what a search does or does not turn up[.]”). Officer Duggins testified that the strong odor of marijuana that he smelled upon Defendant rolling down his window was the reason that the Officer began searching the items within Defendant’s vehicle. The bag that Officer Duggins searched was an opaque nontransparent bag. So, any subsequently found items in the bag that was searched cannot form the basis for establishing further probable cause. In this case, it is clear based on the testimony and the police report that the initial search was entirely predicated on the smell of marijuana and every subsequent area searched would not have occurred but for the smell of marijuana which precipitated Defendant being detained and the vehicle searched.

¶ 14 To be clear, marijuana possession in the territory has been legalized.

An adult over the age of 21 may possess up to:

- (a) Two ounces of Cannabis;
- (b) Fourteen grams of Cannabis Concentrate; and
- (c) One ounce of Cannabis Products.

V.I. Code Ann. tit. 19, § 785. Whether the Government of the Virgin Islands has fully operationalized the cannabis industry is irrelevant as to whether an individual may *possess* cannabis. Further, as the Court in *Turnbull* noted there already have been limited commercial licenses issued. *See Turnbull*, 2025 VI SUPER 26, ¶ 11. Further, an individual police officer is not in the position to know whether cannabis licenses have been issued as the licensure of cannabis businesses is handled by a different agency. However, what the officer is in the position to know, is that cannabis has been legalized for possession in the territory regardless of what further information an individual officer is privy to regarding the state of the supply chain.

¶ 15 However, to be clear, an officer can use the smell of marijuana as a *factor* when analyzing the totality of the circumstances of whether probable cause to search an automobile exists. In *People of the Virgin Islands v. Henderickson*, the Superior Court found that the smell of marijuana combined with the Defendant's physical resistance and eventual flight from the officers during a routine traffic stop was sufficient to establish probable cause for the search of a defendant's automobile. 2026 VI SUPER 14, ¶ 38.

¶ 16 Here, unlike in *Hendrickson*, the police did not note any physical resistance, flight, or especially suspicious furtive moment prior to deciding the officers had sufficient probable cause to search the vehicle.

¶ 17 Further, even with the legalization of marijuana, it is still a crime to drive under the influence of marijuana. *See* 20 V.I.C. § 493(a).¹ So, officers may be able to establish probable cause when there are indicia of driving under the influence of marijuana. For example, in *People*

¹ *See also* 19 V.I.C. § 800g (outlining that The Cannabis Use Act does not protect individuals from civil, criminal, or other penalties for undertaking tasks under the influence of Cannabis when doing so would constitute negligence or professional malpractice; consuming cannabis in unauthorized public locations; or operating, navigating, or being in actual control of any motor vehicle, aircraft, train, or motorboat while under the influence of Cannabis).

v. Parker, the Colorado Court of Appeals found the defendant's bloodshot, dilated eyes, slowed speech, and admissions to being high and having recently used marijuana in combination with the odor of marijuana gave the officers sufficient facts to determine there was probable cause to believe there was evidence in the automobile of the crime of driving under the influence. No. 15CA1266, 2021 WL 12343497, at *4 (Colo. App. Nov. 4, 2021) (internal citations omitted). Similarly, in *State v. Jones*, the Minnesota Court of Appeals, found there were sufficient facts to establish probable cause to search the defendant's vehicle when the officer observed smoke coming from the defendant's vehicle, the officer observed the passenger's drug use, and the defendant made comments suggesting he had smoked marijuana prior to driving in combination with the odor of marijuana. 2026 WL 1972200, at *4 (Minn. Ct. App. July 6, 2026). Moreover, in *Ohio v. Sawyer*, the Court of Appeals of Ohio, First District, distinguished prior Ohio case law finding the smell of marijuana to be insufficient to establish probable cause alone from the facts in *Sawyer* where the *Sawyer* Court found that officers had sufficient facts to establish probable cause for a search when the defendant drove the wrong way down the road, there was smoking paraphernalia, and there was the smell of burnt marijuana. 2026 WL 2185980, at *3–4 (Ohio App. 1 Dist., 2026) (internal citations omitted).

¶ 18 In this case, unlike the prior three cases cited, there was no testimony from either officer that Defendant prior to the search being conducted exhibited any signs of impairment, evidence of marijuana use or that the officers were investigating Defendant for possible driving under the influence of marijuana. If there had been credible testimony or other evidence showing that the officers were concerned with the Defendant driving under the influence of marijuana, then that

may have resulted in sufficient facts to establish probable cause under the totality of the circumstances.² However, that was not the case here.

¶ 19 Accordingly, a traffic stop for allegedly running a stop sign and the smell of marijuana without more does not establish probable cause for a search when marijuana possession has been legalized in the jurisdiction. Conduct that was once illegal does not carry with it a lingering stain of illegality once it has been legalized and innocent conduct cannot without more establish probable cause for a search.

C. The Physical Evidence and the Incriminating Statements That Were Made Were Derivative of an Illegal Warrantless Search; Accordingly, Both Must be Suppressed.

¶ 20 “Under the ‘fruit of the poisonous tree’ doctrine, all evidence derived, either directly or indirectly, from an unlawful invasion into one’s realm of constitutional sanctity, must be excluded as proof against the victim.” *See People v. Walters*, 2017 WL 6025305, at *3 (V.I. Super. Dec. 4, 2017) (internal citation and quotation marks omitted). ‘Fruits’ of the poisonous tree is all evidence that is derivative of an illegal search including both physical tangible evidence and verbal evidence. *Castillo v. People*, 59 V.I. 240, 256 (V.I. 2013) (internal citations omitted); *see also United States v. Nisbett*, 2017 WL 125015, at *9 (D.V.I. Jan. 11, 2017) (internal citations omitted).

² Probable cause solely predicated on the smell of any alleged illegality is a dubious proposition given that in most instances there is no way to combat the allegation of a past odor while in Court nor does the smell necessarily indicate illegality. The requirement for there to be more than the odor insulates innocent individuals. *See Lewis v. State*, 233 A.3d 86, 99–100 (Md. 2020) (quoting prior Judges that opined that “[I]f the mere odor of burnt marijuana on a citizen’s breath gives the police probable cause to make an arrest, it would seem to follow that the odor of marijuana smoke on a person’s clothes or hair would give probable cause as well. If so, it is not difficult to imagine scenarios in which police officers would have probable cause to arrest and search someone whose only exposure to marijuana is from second-hand smoke—e.g., someone who was standing inside a bus enclosure in the rain while others smoked marijuana; someone whose family members or housemates smoke marijuana; someone who borrowed a piece of clothing or outerwear from an acquaintance who smokes marijuana; someone who just came from a concert at which members of the audience were smoking marijuana . . . [t]here is no way to challenge or verify what the officer smelled, no way to test whether a person actually smelled of marijuana, . . . and no way to control for the fully legal and otherwise non-criminal or second-hand ways someone could come to smell like marijuana.”) (internal citations omitted).

The Supreme Court held that a confession obtained after an illegal arrest should be excluded unless intervening events break the causal connection between the illegal arrest and the confession so that the confession can be regarded as “sufficiently an act of free will to purge the primary taint.”

Castillo, 59 V.I. at 257–58 (citing *Brown v. Illinois*, 422 U.S. 590, 601-04 (1975)). “Although a suspect's Fifth Amendment right can be waived if a voluntary statement is given, such statement may nevertheless be inadmissible if procured through a violation of the Fourth Amendment.” *Id.* at 257.

In *Brown v. Illinois*, the “Supreme Court listed three factors for courts to consider in determining whether the causal chain is sufficiently attenuated: (1) the time elapsed between the constitutional violation and the acquisition of the evidence; (2) the presence of intervening circumstances; and (3) the purpose and flagrancy of the official misconduct.

People v. Penn, 2012 WL 13220158, at *6 (V.I. Super. Mar. 27, 2012) (citing 40 Geo. L.J. Ann. Rev. Crim. Proc. 217-219 (2011); *Brown*, 422 U.S. at 603-04).

¶ 21 In this case everything that was found has its roots in the original illegal warrantless search predicated on the smell of marijuana. This includes the statements made by Defendant. Defendant did not make any of the statements until the traffic stop was illegally extended to conduct the illegal warrantless search. In this case, it was a short period between the illegal search and the statements given and there are no intervening circumstances that occurred. Further, the conduct was flagrant given the legal status of marijuana for approximately the past three years. Accordingly, since the circumstances were not attenuated, both the physical and verbal evidence obtained pursuant to the illegal search are fruits of the poisonous tree. Therefore, every item subsequently found during the search, and the verbal evidence must be suppressed as fruits of the poisonous tree.

CONCLUSION

¶ 22 In sum, the traffic stop was reasonable as it was predicated on reasonable suspicion that a traffic violation had occurred. The subsequent search was not supported by probable cause as the odor of marijuana without more cannot be the sole basis for establishing probable cause in a jurisdiction with legal marijuana. Further, both the physical evidence and the verbal evidence are derivative of the illegal warrantless search. Therefore, both the physical evidence and the verbal evidence must be suppressed as fruit of the poisonous tree.

Accordingly, it is hereby

ORDERED that Defendant's Motion to Suppress is **GRANTED**; and it is further

ORDERED that all evidence obtained from the search is **SUPPRESSED** and **EXCLUDED** from use in Defendant's trial in this matter; and it is further

ORDERED that all statements made by the Defendant after the officer instructed Defendant to exit the vehicle are **SUPPRESSED** and **EXCLUDED** from use in Defendant's trial in this matter; and it is further

ORDERED that copies of this Memorandum Opinion and Order shall be served upon Defendant Ricaldo Thomas, Assistant Attorney General Madeliene James, Esq., and Deputy Chief Territorial Public Defender Alexia Furlow, Esq.

DATED: October 6, 2026



HON. PEDRO K. WILLIAMS
Judge of the Superior Court
of the Virgin Islands

ATTEST:

TAMARA CHARLES

Clerk of the Court



10/08/2026

for LATOYA CAMACHO

Court Clerk Supervisor __/__/__

