

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
ALLEN COUNTY**

STATE OF OHIO,

CASE NO. 1-25-79

PLAINTIFF-APPELLEE,

v.

ASHLEY M. MOORE,

**OPINION AND
JUDGMENT ENTRY**

DEFENDANT-APPELLANT.

**Appeal from Allen County Common Pleas Court
Trial Court No. CR2025 0163**

Judgment Affirmed

Date of Decision: September 8, 2026

APPEARANCES:

***Craig M. Jaquith* for Appellant**

***John R. Willamowski, Jr.* for Appellee**

MILLER, J.

{¶1} Defendant-appellant, Ashley Moore (“Moore”), appeals the judgment of sentence entered against her in the Allen County Court of Common Pleas on December 12, 2025. For the reasons set forth below, we affirm.

Facts and Procedural History

{¶2} This case originated on July 17, 2025, when an Allen County grand jury indicted Moore on one count of aggravated possession of drugs in violation of R.C. 2925.11(A) and (C)(1)(c), a felony of the second degree.

{¶3} On May 26, 2025, Moore, while driving a silver pickup truck, was pulled over by Sergeant Brittany Osting (“Sgt. Osting”) for a traffic violation on West Kibby Street in Lima, Ohio. Sgt. Osting testified that the area where the stop occurred was known by law enforcement to be a high crime area containing known drug houses. Upon being approached by Sgt. Osting, Moore stated she was from Kentucky, was in the area to mow a few lawns, and she was en route to the next property on her list. When Sgt. Osting asked for Moore’s driver’s license, Moore turned her back to Sgt. Osting and reached for a purse in the passenger seat before eventually turning back and placing the purse in front of her in plain view. Sgt. Osting testified she found this to be suspicious behavior and pivoted her position in order to gain a better vantage point. While looking into the vehicle to observe Moore, Sgt. Osting saw an object that appeared at first glance to be a crack pipe. When Sgt. Osting inquired about her address, Moore responded by pointing to the address on her identification and voluntarily stated she is from Kentucky and lives two hours away

from Lima, Ohio. She also voluntarily stated she was on probation in Kentucky. When Sgt. Osting had dispatch run a check on Moore's driver's license, a previous OVI conviction was revealed on her record.

{¶4} Based on these observations, Sgt. Osting asked Moore if she could search the vehicle, to which Moore agreed. At this point Patrolman Chance Flynn ("Officer Flynn") had arrived on the scene. Prior to searching the truck, Sgt. Osting performed a pat down on Moore. When asked by Sgt. Osting if there were any sharp objects on her person, Moore said there were not. Sgt. Osting testified that when she attempted to search the waistband area of Moore's shorts, Moore pushed her buttocks back and brought her hands down to her waist. After asking her to keep her hands up, Moore repeated this behavior. At this point, Sgt. Osting handcuffed Moore in order to continue the search unimpeded. Upon returning to the search of Moore's waist area, Sgt. Osting retrieved an Altoids tin from Moore's crotch region. Sgt. Osting continued her search and felt an object between Moore's legs that, according to her testimony, was immediately apparent, based on her training and experience, to be a glass pipe and a needle.

{¶5} Upon this discovery, Moore volunteered to retrieve the items. Sgt. Osting walked Moore back to Officer Flynn's cruiser and freed one of her hands so that she could recover the items in her shorts. Moore continued to retrieve two needles, a glass meth pipe, and a plastic bag that was later confirmed to contain 24.03 grams of methamphetamine. The Altoids tin was also later confirmed to contain a small amount of methamphetamine.

{¶6} On September 12, 2025, Moore filed a motion to suppress arguing Sgt. Osting’s search of her person violated her Fourth Amendment rights. Following a hearing and submission of post-hearing briefs, the trial court denied Moore’s motion. Moore subsequently pleaded no contest and was sentenced to an indefinite, mandatory prison term of four to six years.

{¶7} This appeal followed. Moore raises a single assignment of error.

Assignment of Error

The trial court erred in overruling Ms. Moore’s suppression motion, and in failing to suppress evidence obtained in violation of the Fourth Amendment.

{¶8} In her sole assignment of error, Moore contends there were insufficient facts to justify the warrantless search of her person in violation of her Fourth Amendment rights. We disagree.

Standard of Review

{¶9} “Appellate review of a motion to suppress presents a mixed question of law and fact.” *State v. Burnside*, 2003-Ohio-5372, ¶ 8. Deference is afforded the trial court’s findings of fact, so long as they are supported by competent, credible evidence. *Id.* Regarding conclusions of law, however, our standard of review is *de novo*, and we must determine “whether the facts satisfy the applicable legal standard.” *Id.*

Analysis

{¶10} The Fourth Amendment to the United States Constitution, guarantees, “[t]he right of the people to be secure in their persons, houses, papers, and effects, against

unreasonable searches and seizures. . . .” U.S. Const., Amend. IV. “The Ohio Constitution offers a parallel provision to the Fourth Amendment of the Federal Constitution that has been held to afford the same level of protection as the United States Constitution.” *State v. Kerr*, 2017-Ohio-8516, ¶ 12 (3d Dist.). “The primary purpose of the Fourth Amendment is to impose a standard of reasonableness upon the exercise of discretion by law enforcement officers in order to ‘safeguard the privacy and security of individuals against arbitrary [governmental] invasions.’” *State v. Carlson*, 102 Ohio App.3d 585, 592 (9th Dist.1995), quoting *Delaware v. Prouse*, 440 U.S. 648, 654 (1979).

{¶11} “The Fourth Amendment does not proscribe all state-initiated searches and seizures; it merely proscribes those which are unreasonable.” *Florida v. Jimeno*, 500 U.S. 248, 250 (1991), citing *Illinois v. Rodriguez*, 497 U.S. 177, 183 (1990). Thus, “[t]he touchstone of the Fourth Amendment is reasonableness.” *Id.* The Supreme Court of the United States has identified that “in every case addressing the reasonableness of a warrantless search [it is] the basic rule 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.’” *Arizona v. Gant*, 556 U.S. 332, 338 (2009), quoting *Katz v. United States*, 389 U.S. 347, 357 (1967). The Ohio Supreme Court has recognized seven exceptions to the general rule requiring search warrants:

- (a) a search incident to a lawful arrest;
- (b) consent signifying waiver of constitutional rights;

- (c) the stop-and-frisk doctrine;
- (d) hot pursuit;
- (e) probable cause to search, and the presence of exigent circumstances;
- (f) the plain view doctrine; and
- (g) administrative search.

State v. Urdiales, 2015-Ohio-3632, ¶ 28 (3d Dist.).

{¶12} The stop-and-frisk exception originates in *Terry v. Ohio*, 392 U.S. 1 (1968). The rule established in *Terry* permits “a reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual, regardless of whether he has probable cause to arrest the individual for a crime.” *Id.* at 27. In order to justify the pat down, “the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Id.* at 21. Officers may consider the totality of the circumstances, and such inferences are judged on an objective standard and not the officer’s subjective or unreasonable beliefs. *See id.* at 21-22 and *State v. Andrews*, 57 Ohio St.3d 86, 87-88 (1991). “A court reviewing the officer’s actions must give due weight to his experience and training and view the evidence as it would be understood by those in law enforcement.” *Andrews* at 88.

{¶13} Additionally, the need for a pat down when drugs are involved is heightened, because “[t]he very nexus between drugs and guns can create a reasonable suspicion of danger to the officer.” *State v. Thompson*, 2006-Ohio-4285, ¶ 11 (1st Dist.); *see also*, *State*

v. Evans, 67 Ohio St.3d 405, 413 (1993) (“The right to frisk is virtually automatic when individuals are suspected of committing a crime, like drug trafficking, for which they are likely to be armed.”) While the justification for a pat down must comply with the rule set forth in *Terry*, retrieval of illegal contraband is permitted if its presence is revealed to be immediately apparent during a search for weapons under what has been deemed the “plain feel” doctrine:

If a police officer lawfully pats down a suspect’s outer clothing and feels an object whose contour or mass makes its identity immediately apparent, there has been no invasion of the suspect’s privacy beyond that already authorized by the officer’s search for weapons; if the object is contraband, its warrantless seizure would be justified by the same practical considerations that inhere in the plain-view context.

Minnesota v. Dickerson, 508 U.S. 366, 375-376 (1993); *see also State v. Evans*, 67 Ohio St.3d 405, fn5 (1993). However, “the officer may not manipulate the object, which he has previously determined not to be a weapon, in order to ascertain its incriminating nature.” *Evans* at 414, fn5.

{¶14} In the present case, Moore only argues that the pat down of her person was contrary to law. Considering the totality of the circumstances, as permitted by *Terry*, we find that Sgt. Osting possessed an objectively reasonable belief that Moore may have been armed and dangerous, justifying the pat-down search. Sgt. Osting through her testimony established specific articulable facts which reasonably warranted the search. At the outset, Sgt. Osting testified she had over ten years of experience with the Lima Police Department, was a canine handler with experience in drug detection, had been involved in hundreds of

pat downs, and had conducted hundreds of arrests involving different forms of illegal drugs found on individuals and in vehicles. Viewing the stop and subsequent search as a whole, we find that Sgt. Osting's extensive law enforcement background enabled her to recognize indicators of illicit drug activity that might evade an untrained layperson.

{¶15} As for her observations that support her grounds for reasonable suspicion, Sgt. Osting testified the area of the stop was a high-crime area, known for its association with illegal narcotics, and that several known drug houses were located nearby. Next, Sgt. Osting found it suspicious that Moore drove, in another person's vehicle, two hours away from her home in Kentucky to mow lawns. Further, Sgt. Osting testified that Moore shielded her purse with her body when gathering her driver's license and also observed, what appeared at the time, to be a crack pipe in the vehicle.¹ Finally, Moore volunteered the fact to Sgt. Osting that she was on probation in Kentucky, and police dispatch confirmed after running her driver's license that she had a prior OVI conviction in Kentucky. Although each individual factor presented may not have been sufficient to establish reasonable suspicion of illegal activity, the totality of the circumstances amounted to reasonable suspicion sufficient to justify the pat down.

The determination whether an officer had reasonable suspicion to conduct a *Terry* stop must be based on the totality of circumstances "viewed through the eyes of the reasonable and prudent police officer on the scene who must react to events as they unfold." *State v. Andrews*, 57 Ohio St.3d 86, 87-88 (1991). An assessment of the totality of the circumstances "does not deal with hard certainties, but with probabilities." *United States v. Cortez*, 449

¹ Upon search of the vehicle this item was discovered to be a tire gauge. Given the totality of the circumstances, along with the similar shape and size of a tire gauge to a crack pipe, we do not find Sgt. Osting's suspicion to be unreasonable.

U.S. 411, 418 (1981). We consider the cumulative facts “not in terms of library analysis by scholars, but as understood by those versed in the field of law enforcement.” *Id.*

State v. Hairston, 2019-Ohio-1622, ¶ 10. Considering the totality of the circumstances, we find Sgt. Osting was justified in conducting a *Terry* stop, because she possessed a reasonable articulable suspicion Moore was in possession of illegal narcotics, and, correspondingly, was justified in her belief that dangerous weapons may be present. *See Thompson*, 2006-Ohio-4285, at ¶ 11.

{¶16} Regarding the seizure of the Altoids tin, Sgt. Osting testified that, based on her years of experience, individuals will often hide weapons in their waistband area. When Osting’s hands approached Moore’s waistband area, Moore resisted in the form of pushing her buttocks back to move the officer away and bringing her arms down in a manner that impeded Sgt. Osting’s pat down. She twice impeded the pat down in this manner. After handcuffing her to complete the search, Sgt. Osting felt a hard object she readily believed could be a weapon. She then carefully retrieved the object. The object was an Altoids tin that later was confirmed to contain a small amount of methamphetamine. Viewing the scenario as a whole, we find (1) Sgt. Osting was patting down an area of Moore’s body she knew from her experience to be a location weapons are often hidden; (2) Moore resisted Sgt. Osting’s search of that specific area of her body; and (3) upon frisking that area, she immediately felt a hard object. Given the totality of these circumstances, we find Sgt. Osting could not have reasonably discounted the possibility that the object was a weapon or contained a weapon. *See Evans*, 67 Ohio St.3d 405, at 416 (finding an officer could not

discount the possibility of a weapon being present during a *Terry* frisk when the object in question of suspicious size and density ended up being a large wad of cash and a small amount of cocaine).

{¶17} As for the remainder of the contraband recovered from Moore's person, Sgt. Osting testified that upon continuing her frisk and patting down the area between Moore's legs, she felt what was immediately apparent to be a needle and a glass pipe. When Sgt. Osting stated that she felt something, Moore volunteered to retrieve the objects. Therefore, the seizure of these objects was justified as immediately apparent contraband found during a legitimate *Terry* frisk pursuant to *Dickerson*. Additionally, Moore voluntarily removed the objects, herself, and presented them to Sgt. Osting and Officer Flynn.

{¶18} For these foregoing reasons, Moore's assignment of error is overruled.

Conclusion

{¶19} Having found no error prejudicial to the Appellant herein in the particulars assigned and argued in the assignment of error, we affirm the judgment of the Allen County Common Pleas Court.

Judgment Affirmed

ZIMMERMAN, P.J. and WALDICK, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignment of error is overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. See App.R. 30.

Mark C. Miller, Judge

William R. Zimmerman, Judge

Juergen A. Waldick, Judge

DATED:
/jlm