Illinois Official Reports

Appellate Court

People v. Molina, 2022 IL App (4th) 220152

Appellate Court Caption	THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, v. VINCENT E. MOLINA, Defendant-Appellee.
District & No.	Fourth District No. 4-22-0152
Filed	November 23, 2022
Decision Under Review	Appeal from the Circuit Court of Whiteside County, No. 20-TR-5612; the Hon. Daniel Dalton, Judge, presiding.
Judgment	Reversed and remanded.
Counsel on Appeal	Terry Costello, State's Attorney, of Morrison (Patrick Delfino, David J. Robinson, and Luke McNeill, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People. James W. Mertes, of Mertes & Mertes, P.C., of Sterling, for appellee.
Panel	JUSTICE STEIGMANN delivered the judgment of the court, with opinion. Justices Zenoff and Doherty concurred in the judgment and opinion.

OPINION

¶ 1 In December 2020, the State charged defendant, Vincent E. Molina, with unlawful possession of cannabis by a passenger in a motor vehicle (625 ILCS 5/11-502.15(c) (West 2020)). In April 2021, defendant filed a motion to suppress evidence, which the trial court granted following a hearing.

¶ 2 The State appeals, arguing that the trial court erred by granting defendant's motion to suppress because (1) the primary holding in *People v. Stout*, 106 Ill. 2d 77, 477 N.E.2d 498 (1985), that the odor of cannabis alone establishes probable cause to search a vehicle, is still good law, (2) the trial court improperly based its decision on the plausibility of innocent explanations for why a car could smell of raw cannabis, and (3) the court improperly considered evidence outside the record and its own personal knowledge. Because we agree with the State's arguments, we reverse and remand for further proceedings.

¶ 3 I. BACKGROUND

¶ 4 In December 2020, defendant was charged with unlawful possession of cannabis by a passenger in a motor vehicle (625 ILCS 5/11-502.15(c) (West 2020)) following a traffic stop by Trooper Ryan Wegand of the Illinois State Police. In April 2021, defendant filed a motion to suppress evidence, arguing that the smell of raw cannabis without more did not constitute probable cause to search the vehicle.

¶ 5 In June 2021, the trial court conducted a hearing on defendant's motion to suppress. Wegand testified that defendant was a passenger in a vehicle that Wegand stopped for speeding. Wegand stated that he had the training and experience to discern the difference between the odor of burnt cannabis and the odor of raw cannabis. When Wegand approached the passenger side of the vehicle, he testified that he smelled the strong odor of raw cannabis. Based solely on that smell, Wegand conducted a search of the vehicle, finding (1) in the center console "a small cardboard box with several rolled joints" inside and (2) "a clear plastic Tupperware container in the glove box that had suspected cannabis in it." Prior to the search, defendant told Wegand that he had a license for the medical use of cannabis.

¶ 6 Defendant argued that recent enactments of the Cannabis Regulation and Tax Act (410 ILCS 705/10-35(a)(2)(D) (West 2020)) and the Compassionate Use of Medical Cannabis Program Act (Medical Act) (410 ILCS 130/1 *et seq.* (West 2020)) rendered the smell of raw cannabis on its own insufficient to constitute probable cause. Specifically, defendant argued that the language of those statutes does not require storage of cannabis to be in an "odor-proof" container as section 11-502.1 of the Illinois Vehicle Code requires (625 ILCS 5/11-502.1 (West 2020)). Further, defendant argued that the Cannabis Regulation and Tax Act had "fundamentally changed the state of Illinois relating to cannabis[;] *** the substance itself is no longer 'contraband.' "

¶ 7 In November 2021, the trial court granted defendant's motion to suppress, stating in its written order that "[t]he smell of raw cannabis can be quite strong even in small quantities," and "there are many innocent reasons someone or someone's vehicle may emit the odor of raw cannabis." The court explained its reasoning, writing the following:

> "[O]ne such reason is that a person working at a cannabis cultivation facility, or a dispensary could, and likely would, leave their [*sic*] place of employment smelling like

raw cannabis. Persons with medical cannabis card may cultivate plants and, in the process of doing so, would likely smell of raw cannabis. Persons using or handling raw cannabis in *any way* can smell of raw cannabis.

Persons using, possessing, or otherwise around raw cannabis wholly within the bounds of the law can, and likely will, have the odor of cannabis on their clothes, hair, and even personal effects." (Emphasis in original.)

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 The State appeals, arguing that the trial court erred by granting defendant's motion to suppress because (1) the primary holding in *Stout*, 106 Ill. 2d 77, that the odor of cannabis alone establishes probable cause to search a vehicle, is still good law, (2) the trial court improperly based its decision on the plausibility of innocent explanations for why a car could smell of raw cannabis, and (3) the court improperly considered evidence outside the record and its own personal knowledge. Because we agree with the State's arguments, we reverse and remand for further proceedings.

¶ 11 A. The Applicable Law and the Standard of Review

¶ 12 1. *The Standard of Review*

¶ 13 Appellate courts employ a two-part standard of review when reviewing a trial court's order suppressing evidence: (1) the trial court's factual findings are reviewed under a manifest-weight-of-the-evidence standard and (2) the trial court's ultimate legal ruling is reviewed *de novo*. *People v. Aljohani*, 2022 IL 127037, ¶ 28.

¶ 14 2. *Search and Seizure*

¶ 15 All persons enjoy the right to be free from unreasonable searches and seizures. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. A police officer may conduct a warrantless search of a stopped vehicle if the officer has probable cause to believe that the vehicle contains contraband. *United States v. Ross*, 456 U.S. 798, 799 (1982). "To establish probable cause, it must be shown that the totality of the facts and circumstances known to the officer at the time of the search would justify a reasonable person in believing that the automobile contains contraband or evidence of criminal activity." *People v. Hill*, 2020 IL 124595, ¶ 23, 162 N.E.3d 260. Probable cause "requires only that the facts available to the officer—including the plausibility of an innocent explanation—would warrant a reasonable man to believe there is a reasonable probability 'that certain items may be contraband *** or useful as evidence of a crime.' " *Id.* ¶ 24 (quoting *Texas v. Brown*, 460 U.S. 730, 742 (1983) (plurality opinion)).

¶ 16 3. *The Law Pertaining to Cannabis in Illinois*

¶ 17 In *People v. Rowell*, 2021 IL App (4th) 180819, ¶ 25, 182 N.E.3d 806, this court provided a brief history of cannabis law in Illinois, writing the following:

"In 2014, [(through the Medical Act)] the State of Illinois legalized the possession of cannabis for people to whom the State had granted a license to use cannabis for medical purposes. See 410 ILCS 130/1 *et seq.* (West 2014). In 2016, the State of Illinois passed a law stating that a licensed user of medical cannabis 'shall not be considered an

> unlawful user' and that medical cannabis 'purchased by a qualifying patient at a licensed dispensing organization shall be lawful products.' 410 ILCS 130/7 (West 2016). Also in 2016, the State of Illinois decriminalized the possession of less than 10 grams of cannabis and defined possession of less than 10 grams as a 'civil law violation.' 720 ILCS 550/4(a) (West 2016)."

¶ 18 Expanding on that history, and relevant to this case, section 30 of the Medical Act in 2014 allowed for the possession of medical cannabis in a private vehicle if "the medical cannabis is in a reasonably secured, sealed, tamper-evident container and reasonably inaccessible while the vehicle is moving." 410 ILCS 130/30(a)(2)(E) (West 2014). Likewise, section 11-502.1 of the Illinois Vehicle Code provided that passengers could transport medical cannabis if it was stored "in a sealed, tamper-evident medical cannabis container." 625 ILCS 5/11-502.1(c) (West 2014).

¶ 19 In June 2019, the State of Illinois legalized the possession of small amounts of cannabis for recreational use through the Cannabis Regulation and Tax Act (Pub. Act 101-27 (eff. June 25, 2019) (adding 410 ILCS 705/1-1 *et seq.*)), allowing, among other things, recreational cannabis to be transported in a private vehicle if it "is in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving" (410 ILCS 705/10-35(a)(2)(D) (West 2020)). At the same time, the legislature amended section 11-502.1 and added section 11-502.15 of the Vehicle Code to allow drivers and passengers to transport medical and recreational cannabis if it is placed "in a sealed, *odor-proof, and child-resistant*" cannabis container. (Emphasis added.) 625 ILCS 5/11-502.1 (West 2020) (amended by Pub. Act 101-27, § 900-38 (eff. June 25, 2019)); *id.* § 11-502.15 (added by Pub. Act 101-27, § 900-38 (eff. June 25, 2019)).

¶ 20 In August 2019, the legislature amended section 30(a)(2)(E) of the Medical Act to mirror the language of section 10-35(a)(2)(D) of the Cannabis Regulation and Tax Act, requiring medical cannabis to be stored "in a reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving." 410 ILCS 130/30(a)(2)(E) (West 2020) (amended by Pub. Act 101-363, § 55 (eff. Aug. 9, 2019) (removing "tamper-evident")); see 410 ILCS 705/10-35(a)(2)(D) (West 2020).

¶ 21 We note that there have been subsequent amendments to the Medical Act, Cannabis Regulation and Tax Act, and Vehicle Code. However, we discuss only the versions of those statutes that were in effect in 2020 at the time of the traffic stop in this case.

¶ 22 In 2020, the Illinois Supreme Court in *Hill*, 2020 IL 124595, ¶ 15, acknowledged that it had the opportunity to overrule its precedent set in *Stout*, 106 Ill. 2d at 87, that the smell of cannabis alone can establish probable cause sufficient to justify the search of a vehicle. The supreme court declined to do so, explaining as follows:

> "[D]efendant further requests this court to overrule [*Stout*, 106 Ill. 2d at 87], which held the odor of burnt cannabis without other corroborating evidence provides an officer probable cause to search a vehicle. Based on the record, however, we find it unnecessary to address this narrow legal issue." *Hill*, 2020 IL 124595, ¶ 15.

Accordingly, in *Rowell*, 2021 IL App (4th) 180819, ¶ 26, this court concluded that *Stout* remained binding precedent. In so holding, this court explained as follows:

> "In this case, we must follow the lead of the Illinois Supreme Court. It is important to recognize that the Illinois Supreme Court earlier this very year declined in *Hill* to

> overrule *Stout*. [Citation.] The *Hill* decision demonstrates that the holding in *Stout*—namely, that the scent of cannabis alone provides probable cause for a search—was in force in 2017 at the time of the search in this case." *Id.* ¶ 28.

¶ 23 B. The Odor of Cannabis Justified the Search of Defendant's Vehicle

¶ 24 In this case, defendant argues—as did the defendant in *Rowell*—that changes in the law regarding the regulation of cannabis have rendered *Stout* inapplicable to post-legalization of cannabis factual scenarios. Specifically, defendant contends that because (1) *Stout* and *Rowell* were decided based on the law in place before the possession of recreational cannabis was legalized and (2) the traffic stop in this case occurred after legalization of the possession of small amounts of cannabis, *Stout* and *Rowell* have no application. Defendant asserts that the 2019 enactments so changed the legal landscape that the mere smell of cannabis no longer provides probable cause to suspect the presence of contraband. Defendant also contends that recent changes in the Cannabis Regulation and Tax Act and the Medical Act impliedly repealed the Vehicle Code's requirement that cannabis be stored in an odor-proof container because amendments to those acts were the more recent legislative action.

¶ 25 We disagree.

¶ 26 1. *Statutory Amendment by Implication Is Not Favored*

¶ 27 Defendant's argument that provisions of the Vehicle Code were impliedly repealed by recent revisions to the Cannabis Regulation and Tax Act and the Medical Act has no basis whatsoever in Illinois law. In *People v. Ullrich*, 135 Ill. 2d 477, 483, 553 N.E.2d 356, 359 (1990), the Supreme Court of Illinois wrote the following:

> "Amendment by implication is not favored; a statute will not be held to have implicitly amended an earlier statute unless the terms of the later act are so inconsistent with those of the prior act that they cannot stand together. [Citation.] If the two enactments are capable of being construed so that both may stand, the court should so construe them."

See also *Barragan v. Casco Design Corp.*, 216 Ill. 2d 435, 441-42, 837 N.E.2d 16, 21 (2005) (in which the court wrote that when "two statutes are allegedly in conflict, a court has a duty to interpret the statutes in a manner that avoids an inconsistency and gives effect to both statutes, where such an interpretation is reasonably possible").

¶ 28 The supreme court's decision in *Ullrich* dealt with the *amendment* of a statute by implication and concluded it was not favored; the implied *repeal* of a statute—which is the argument defendant raises in this case—is even more strongly disfavored. As the Second District Appellate Court wrote in *People v. McGuire*, 2015 IL App (2d) 131266, ¶ 15, 53 N.E.3d 77,

> "[t]his court presumes that the legislature would not enact a law that completely contradicts an existing law without expressly repealing the existing law. [Citation.] For a later enactment to operate as a repeal by implication of an existing statute, there must be such a manifest and total repugnance that the two cannot stand together." (Internal quotation marks omitted.)

¶ 29 2. *The Law Continues to Require Cannabis to Be Transported in an Odor-Proof Container*

¶ 30 Defendant asserts that the legislature intended for the "odor-proof" container requirement of the Vehicle Code to be superseded by the Medical Act and Cannabis Regulation and Tax Act, which do not require cannabis storage in a vehicle to be in an odor-proof container. We disagree.

¶ 31 The primary goal of statutory interpretation is to give effect to the intent of legislature. *People v. Hunter*, 2013 IL 114100, ¶ 13, 986 N.E.2d 1185. The most reliable indicator of legislative intent "is the language of the statute, given its plain and ordinary meaning. *** Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous." *Id.* We presume that statutes relating to the same subject are "intended to be consistent and harmonious." *In re Craig H.*, 2022 IL 126256, ¶ 26. Accordingly, "even when statutes appear to conflict, they must be construed in harmony if reasonably possible." *Id.* "When statutes covering the same subject conflict, more recently enacted statutes control over earlier ones, and more specific statutes control over general statutes." *Id.*

¶ 32 In August 2018, the Medical Act required medical cannabis to be stored in a "reasonably secured, sealed, tamper-evident container" while being transported in a vehicle. 410 ILCS 130/30(a)(2)(E) (West 2018). In August 2019, after the Cannabis Regulation and Tax Act was passed, that provision of the Medical Act was amended to require cannabis storage during vehicle transport to be in a "reasonably secured, sealed container." 410 ILCS 130/30(a)(2)(E) (West 2020) (amended by Pub. Act 101-363, § 55 (eff. Aug. 9, 2019)).

¶ 33 In June 2019, the Cannabis Regulation and Tax Act was enacted, requiring that adult use cannabis be stored in a "reasonably secured, sealed container" while being transported in a vehicle. 410 ILCS 705/10-35(a)(2)(D) (West 2020). In December 2019, the legislature amended that section but did not alter the language of that requirement. *Id.* (amended by Pub. Act 101-593, § 25 (eff. Dec. 4, 2019)).

¶ 34 In June 2014, the Vehicle Code was amended to include requirements for the storage of medical cannabis in a vehicle, mandating that the cannabis to be stored in a "sealed, tamper-evident medical cannabis container." 625 ILCS 5/11-502.1(b), (c) (West 2014) (added by Pub. Act 98-122, § 935 (eff. Jan. 1, 2014)). In June 2019, the legislature amended that section to require the cannabis to be stored in a "sealed, odor-proof, and child-resistant medical cannabis container." 625 ILCS 5/11-502.1(b), (c) (West 2020) (amended by Pub. Act 101-27, § 900-38 (eff. June 25, 2019)). In that same act, the legislature also added the requirement that adult use cannabis be stored in a "sealed, odor-proof, child-resistant cannabis container" while being transported in a vehicle. *Id.* § 11-502.15(c) (added by Pub. Act 101-27, § 900-38 (eff. June 25, 2019)).

¶ 35 Given the legislative history of these statutes, a plain, harmonious reading of section 30 of the Medical Act (410 ILCS 130/30(a)(2)(E) (West 2020)), section 10-35 of the Cannabis Regulation and Tax Act (410 ILCS 705/10-35(a)(2)(D) (West 2020)), and sections 11-502.1 and 11-502.15 of the Vehicle Code (625 ILCS 5/11-502.1, 11-502.15 (West 2020)) demonstrates that the legislature did not intend to end the requirement that cannabis be stored in an odor-proof container while being transported in a vehicle. To the contrary, the legislature chose to (1) keep the "odor-proof" container requirement in the Vehicle Code and (2) utilize

the more general phrase "reasonably secured" in the Medical Act and Cannabis Regulation and Tax Act.

¶ 36 Because (1) we must interpret related statutes in harmony and (2) the more specific statute controls the general, the "reasonably secured" requirement certainly includes "odor-proof" containers but may also include other methods of storage. Further informing this opinion, although unique to the language of the Medical Act, is section 30(a)(2)(D), which explicitly states, "This Act does not permit any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, the following conduct: *** [p]ossessing cannabis: *** in a vehicle under Section 11-502.1 of the Illinois Vehicle Code[.]" 410 ILCS 130/30(a)(2)(D) (West 2018). We note that this language remained unchanged, despite the passing of the Cannabis Regulation and Tax Act in 2019 and subsequent amendments to the Medical Act. See 410 ILCS 130/30(a)(2)(D) (West 2020).

¶ 37 Further, we are certain that the legislature did not intend to implicitly repeal the Vehicle Code's "odor-proof" requirement because in 2019 the legislature added section 11-502.15 to the Vehicle Code in the same Public Act through which the Cannabis Regulation and Tax Act was enacted. See Pub. Act 101-27, §§ 10-35, 900-38 (eff. June 25, 2019) (adding 410 ILCS 705/10-35 and 625 ILCS 5/11-502.15). Importantly, section 11-502.15 of the Vehicle Code requires that cannabis be stored in a vehicle only in an "odor-proof" container (625 ILCS 5/11-502.15 (West 2020)), and section 10-35 of the Cannabis Regulation and Tax Act requires that cannabis be in a "reasonably secured, sealed container" (410 ILCS 705/10-35(a)(2)(D) (West 2020)). See *Larsen v. Provena Hospitals*, 2015 IL App (4th) 140255, ¶ 49, 27 N.E.3d 1033 (stating that when the legislature acts to pass a statute, it is presumed to act with full knowledge of all existing and prior statutory and case law). Accordingly, if the legislature intended to amend the Vehicle Code to exclude the requirement that cannabis storage be odor-proof during vehicle transport, it could have—and would have—done so. The August 2019 amendment to the Medical Act merely updated its language to mirror that of the Cannabis Regulation and Tax Act (Pub. Act 101-363, § 55 (eff. Aug. 9, 2019)). We deem it significant that the legislature at that time did not amend the Vehicle Code.

¶ 38 We conclude that the legislature did not intend to modify, repeal, or supersede the requirement of sections 11-502.1 and 11-502.15 of the Vehicle Code that cannabis be stored in an odor-proof container during transport in a vehicle when it mandated in the Cannabis Regulation and Tax Act and Medical Act that cannabis be "reasonably secured" during such transport. Accordingly, a driver or passenger of a vehicle who transports cannabis in any container other than one that is odor-proof violates the Vehicle Code and commits a Class A misdemeanor. 625 ILCS 5/11-502.1, 11-502.15 (West 2020).

¶ 39 3. *The Smell of Raw Cannabis Alone Provides Probable Cause for a Vehicle Search*

¶ 40 Defendant asserts that even if the law requires cannabis to be transported in an odor-proof container, the officer needed more facts than the smell of cannabis alone to suggest some criminal activity had occurred. Defendant claims the legislature's legalization scheme allows "almost all individuals aged 21 years and over to possess, consume, use, purchase, obtain, transport, or (in some cases) cultivate cannabis, for personal use." We disagree.

¶ 41 Just because defendant can legally possess some amounts of cannabis under specified conditions does not mean that all forms of possession are presumed to be legal. Regarding this point, the supreme court in *Hill* wrote the following:

> "While the mere presence of cannabis for medical users may no longer be immediately attributable to criminal activity or possession of contraband, such users must possess and use cannabis in accordance with the [Medical] Act. Notably, section 11-502.1 of the Illinois Vehicle Code prohibits any driver or passenger, who is a medical cannabis cardholder, from possessing cannabis within an area of the motor vehicle 'except in a sealed, tamper-evident medical cannabis container.' 625 ILCS 5/11-502.1(b), (c) (West 2016); see 410 ILCS 130/30(a)(5) (West 2016) (the [Medical] Act does not allow any person to violate section 11-502.1 of the Illinois Vehicle Code). Violation of this provision constitutes a Class A misdemeanor. 625 ILCS [5/]11-502.1(d)(1) (West 2016)." *Hill*, 2020 IL 124595, ¶ 34.

¶ 42 Moreover, section 10-10(a) of the Cannabis Regulation and Tax Act limits the amount of cannabis an Illinois resident can legally possess to (1) 30 grams of cannabis flower, (2) 500 milligrams of THC contained in a cannabis-infused product, or (3) 5 grams of cannabis concentrate. 410 ILCS 705/10-10(a) (West 2020). That is to say, possession of cannabis exceeding those amounts remains a crime.

¶ 43 Accordingly, we are not persuaded that the legal landscape has changed in such a way as to render the supreme court's opinions in *Stout* and *Hill* inapplicable. Regardless of recent changes in the law legalizing possession of small amounts of cannabis, there are still, among other things, (1) illegal ways to transport it, (2) illegal places to consume it, and (3) illegal amounts of it to possess. We note that the supreme court in *Stout* did not limit its holding in any way that would suggest the smell of cannabis constituted probable cause only because cannabis was generally illegal. Instead, the court stated simply, "[A]dditional corroboration is not required where a trained and experienced police officer detects the odor of cannabis emanating from a defendant's vehicle." *Stout*, 106 Ill. 2d at 88.

¶ 44 We reiterate the requirements for probable cause: probable cause exists where the facts and circumstances known to the police officer at the time would warrant a reasonable person to believe there is a reasonable probability that the automobile contains contraband or evidence of criminal activity. *Hill*, 2020 IL 124595, ¶ 23. Accordingly, an officer who smells cannabis in a vehicle he has just stopped is almost certain to discover a violation of the Vehicle Code because the law clearly states that when cannabis is transported in a private vehicle, the cannabis must be stored in a *sealed, odor-proof* container—in other words, the cannabis should be undetectable by smell by a police officer. See 625 ILCS 5/11-502.15 (West 2020).

¶ 45 4. *The Trial Court's Musings About Possible "Innocent Reasons" for the Presence of the Odor of Raw Cannabis*

¶ 46 We note that when the trial court granted defendant's motion to suppress, the court mused about several possible innocent explanations for why someone's car could smell of cannabis. This was error.

¶ 47 First, as the State points out, no evidence was presented to the trial court to support any of the court's musings. Although trial courts, like juries, may "consider all the evidence in the light of your own observations and experience in life" (see Illinois Pattern Jury Instructions,

Criminal, No. 1.01 (approved July 18, 2014)), musing about possible explanations for the presence of the odor of raw cannabis cannot be justified based upon "common experiences."

¶ 48 Second, and most important, the trial court's musings about possible innocent explanations for the odor of raw cannabis was clearly prohibited by the Illinois Supreme Court's decision in *Hill*, to which the trial court had even referred in its ruling granting defendant's motion to suppress. In *Hill*, the Illinois Supreme Court quoted from multiple United States Supreme Court decisions and wrote the following:

> "Probable cause deals with probabilities, not certainties. [Citation.] It is a flexible, commonsense standard that 'does not demand any showing that such a belief be correct or more likely true than false.' [Citation.] Therefore, probable cause does not require an officer to rule out any innocent explanations for suspicious facts. [Citation.] Instead, it requires only that the facts available to the officer—including the plausibility of an innocent explanation—would warrant a reasonable man to believe there is a reasonable probability 'that certain items may be contraband or stolen property or useful as evidence of a crime.' " *Hill*, 2020 IL 124595, ¶ 24.

¶ 49 5. *Cannabis Need Not Be Treated Like Alcohol Under Illinois Law*

¶ 50 Defendant also argues that cannabis should be treated like alcohol, pointing out that the smell of alcohol alone has never been held to provide probable cause for a vehicle search. The implication of defendant's argument is that because cannabis—an intoxicating drug—has been legalized and regulated, Illinois case law for another intoxicating drug—specifically, alcohol—should control over established precedent. We disagree and note that defendant provides no authority for us to conclude otherwise.

¶ 51 Alcohol is regulated differently than cannabis—for instance, it is not illegal to possess more than 30 grams of alcohol. Similarly, there are no statutes like sections 11-502.1 and 11-502.15 of the Vehicle Code requiring alcohol to be transported in an odor-proof container.

¶ 52 We acknowledge that cannabis is in a different position in society than it was even four years ago, but that position is not so different that we need to reevaluate the law of probable cause, particularly in light of the supreme court's recent decision in *Hill* not to overrule *Stout*. Accordingly, we conclude that (1) *Stout* remains good law and (2) the smell of raw cannabis, without any corroborating factors, is sufficient to establish probable cause to search a person's vehicle.

¶ 53 C. *People v. Stribling*

¶ 54 In *People v. Stribling*, 2022 IL App (3d) 210098, ¶ 29, the Third District recently considered a case very similar factually to the one now before this court and held that "the smell of the burnt cannabis, without any corroborating factors, is not enough to establish probable cause to search the vehicle." The Third District also concluded as follows: "[This holding] comports with the supreme court's holding in *Hill* and its treatment of the analogous situation regarding alcohol. [Citation.] Thus, the supreme court's holding in *Stout* is no longer applicable to postlegalization fact patterns." *Id.* The Third District based this conclusion upon various statutory amendments that occurred after *Hill*, including "Illinois [becoming] the eleventh state to legalize marijuana for adult, recreational use." *Id.* ¶ 23.

¶ 55 We disagree with the Third District's holding and reasoning. As we stated earlier, *Stout* remains good law because the Illinois Supreme Court in *Hill*, knowing that the law had changed, chose not to overrule *Stout*, and we are required to follow that precedent. Additionally, despite the legalization of the possession of small amounts of cannabis for personal use, a person still may not use cannabis while in a vehicle (410 ILCS 705/10-35(a)(3)(D) (West 2020)) or drive a vehicle if the person has a certain tetrahydrocannabinol (THC) concentration in his or her blood, urine, or other bodily substance (*id.* § 10-35(a)(5); 625 ILCS 5/11-501(a)(7), 11-501.2(a) (West 2020)).

¶ 56 We note that this court issued its opinion in *Rowell* in January 2021, which was 18 months before the Third District issued its opinion in *Stribling* in September 2022. Yet, despite the similarity of the issue before both this court in *Rowell* and the Third District in *Stribling*, the Third District in *Stribling* made no mention of *Rowell*. Interestingly, the trial court in this case, in its discussion of defendant's motion to suppress, also never mentioned *Rowell* even though the State cited that case in its motion asking the court to reconsider its ruling granting the motion to suppress.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we reverse the trial court's judgment and remand for further proceedings.

¶ 59 Reversed and remanded.