

No. 42324-3-II

THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

vs.

JONATHAN R. YOUNG,

Appellant.

Appeal from the Superior Court of Washington for Lewis County

Respondent's Brief

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I. ISSUES

- A. Did the trial court err by entering a finding of fact unsupported by substantial evidence?
- B. Did the trial court err when it denied Young's motion to suppress the evidence obtained from the locked box which was found in Young's backpack?

II. STATEMENT OF THE CASE

On February 19, 2011, around 1:00 a.m., Centralia Police Officer Withrow noticed a man wearing a black backpack and dark clothing walking eastbound on the sidewalk on Harrison Avenue from the Jack in the Box in Centralia, Washington. CP 73, 78. The man, who was later identified as Young, looked up in Officer Withrow's direction and then turned quickly northbound alongside a fence which separates the Shell Station from Jack in the Box. CP 73, 78. Officer Withrow turned into the Shell Station and Young turned facing the fence. CP 73, 78. After pausing for a bit, Young started to walk toward the Shell Station's front door. CP 73, 78. The Shell Station was obviously closed. CP 73, 78. Young looked down and away from Officer Withrow and it was obvious to Officer Withrow that Young was trying to avoid him. CP 73, 78. Young walked directly next to the fence line towards a closed business and faced the fence when Officer Withrow's patrol car neared. CP 73, 78. Young's actions made Officer Withrow highly suspicious.

CP 73, 78. Officer Withrow contacted Young at the front door of the Shell Station and asked Young what he was doing. CP 73, 78. Young immediately handed Officer Withrow his driver's license and told Officer Withrow his car had broken down and he was walking attempting to find a ride home. CP 73, 78. This did not make sense to Officer Withrow because Young was headed in the wrong direction from where Young said he lived. CP 73, 78.

Young, without being asked, handed Officer Withrow a piece of paper listing several items, titled "My BackPack Contents." CP 73, 78. Officer Withrow asked Young if he had any weapons on him and Young stated he did not. CP 73, 78. Officer Withrow then moved to Young's left side and saw a black metal piece sticking out of Young's jean side pocket that appeared to be the end of a knife handle in some sort of sheath. CP 73, 78. The knife, which turned out to be a double edged straight blade knife (dagger), was mostly concealed. CP 73, 78. Young stated the knife was for his protection. CP 73, 78.

Officer Withrow informed Young he was under arrest for possession of or concealing a dangerous weapon and had Young sit on the curb. CP 74, 78. Officer Withrow asked Young if there was anything else in Young's backpack that would be dangerous

and Young stated his backpack only contained the items on the list. CP 74, 78. Officer Withrow searched Young's backpack incident to Young's arrest. CP 74, 78. Officer Withrow found a metal poker with black residue that smelled like marijuana and a broken glass that resembled a methamphetamine pipe. CP 74, 78. Officer Withrow also located a black lockbox in the backpack. CP 74, 79. The lockbox weighed approximately two to three pounds and was large enough to carry dangerous materials or a multitude of weapons. CP 74, 79. Without being asked, Young volunteered that the key to the lockbox was on his keychain in his pocket. CP 74, 79. Officer Withrow retrieved the key, opened the lockbox and found a ziplock type baggie with methamphetamine, an unused methamphetamine pipe, marijuana and other drug paraphernalia. CP 74, 79.

Officer Withrow realized Young was not properly handcuffed and attempted to properly lock the handcuffs. CP 74, 79. Young actively resisted, pushing off from Officer Withrow. CP 74, 78. Officer Reynolds arrived on the scene and attempted to help Officer Withrow gain control of Young. CP 74, 79. Young continued to try to get up but was eventually properly handcuffed and secured in the police car. CP 74, 79.

The Centralia Police Department has a policy in place regarding searching people who are taken into custody. CP 73.

The policy states:

[A]ll prisoners will be searched for weapons or contraband prior to custody transport. Department policy also states any department member who has evidence to be placed in the evidence room shall make an inventory of that evidence. Young's backpack and its contents would have to be placed into Safekeeping as the L.C. Jail will not take it. Safekeeping at the Centralia Police Department is in the evidence room.

CP 73.

A suppression hearing was held and the trial court ruled the evidence was admissible.¹ See 1RP 1-15, CP 70-75.² Young elected to have a stipulated facts bench trial and was convicted on all counts filed in the original information.³ 2RP 9; CP 82. Young timely appeals his convictions. CP 92.

¹ The State will supply further facts in regards to the suppression hearing throughout its brief.

² There are two verbatim report of proceedings. The suppression hearing held on June 8, 2011 will be referred to as 1RP. The motion hearing and bench trial held on June 27, 2011 and June 29, 2011 will be referred to as 2RP.

³ The State charged Young with, Count I, Possession of a Controlled Substance, methamphetamine; Count II, Possession of a Dangerous Weapon; Count III, possession of Forty Grams or Less of Marijuana; Count IV, Resisting Arrest. CP 1-3.

III. ARGUMENT

A. FINDING OF FACT 1.3 FROM THE SUPPRESSION HEARING IS SUPPORTED BY SUBSTANTIAL EVIDENCE.

Findings of fact entered by a trial court after a suppression hearing will be reviewed by the appellate court only if the appellant has assigned error to the fact. *State v. Hill*, 123 Wn.2d 641, 647, 870 P.2d 313 (1994). “Where there is substantial evidence in the record supporting the challenged facts, those facts will be binding on appeal.” *Id.* Substantial evidence exists when the evidence is sufficient to persuade a rational, fair-minded person of the truth of the finding based upon the evidence in the record. *State v. Lohr*, 164 Wn. App. 414, 418, 263 P.3d 1287 (2011) (citation omitted). The appellate court defers to the fact finder regarding the credibility of witnesses and the weight to be given reasonable but competing inferences. *State ex. rel. Lige v. County of Pierce*, 65 Wn. App. 614, 618, 829 P.2d 217 (1992), *review denied* 120 Wn.2d 1008 (1992). Findings of fact not assigned error are considered verities on appeal. *State v. Stevenson*, 128 Wn. App. 179, 193, 114 P.3d 699 (2005). A trial court’s conclusions of law are reviewed de novo, with deference to the trial court on issues of weight and credibility. *State v. Sadler*, 147 Wn. App. 97, 123, 193 P.3d 1108 (2008).

Young challenges Finding of Fact 1.3. Brief of Appellant 5.

Finding of Fact 1.3 states:

At the time the Defendant's locked container was opened, Officer Chad Withrow was following department protocols for inventorying personal belongings of arrested individuals.

CP 71. Young contends that the Centralia Police Department did not have a protocol in place regarding the inventorying of personal belongings of persons being arrested and the finding was therefore in error. Brief of Appellant 6. Young focuses his argument on an exchange between the deputy prosecutor and Officer Withrow during the suppression hearing. Brief of Appellant 6.

Q. Per your policy, are you allowed to put a closed container with unknown contents into your vehicle prior to transporting it to the police department?

A. It is vague in that aspect, but a few people inventory everything prior to transport.

1RP 7. Taken alone, with no other evidence, the State could see how Finding 1.3 would appear to not be supported by sufficient evidence. However, this one snippet from the hearing ignores the rest of the evidence in the record that was presented to the trial court in regards to the policy and procedures employed by the Centralia Police Department.

The record includes more than just Officer Withrow's testimony from the suppression hearing. Finding of Fact 1.1 states:

Both parties stipulated to the admissibility of Officer Chad Withrow's police report for purposes of the suppression hearing. A copy of that police report is attached.

CP 71. At the beginning of the suppression hearing the deputy prosecutor stated that the parties were stipulating to the facts in the police report. 1RP 3. Young's trial counsel agreed that the parties were stipulating to the facts in the police report. 1RP 3. In the police report Officer Withrow states:

Department policy states all prisoners will be searched for weapons or contraband prior to custody transport. Department policy also states any department member who has evidence to be placed in the evidence room shall make an inventory of that evidence. Young's backpack and its contents would have to be placed into Safekeeping as the L.C. Jail will not take it. Safekeeping at the Centralia Police Department is in the evidence room.

CP 74. In addition to this statement in the police report, Officer Withrow's testimony does support that there was a departmental policy and protocols in regards to inventorying belongings of arrested individuals.

Q. (By Mr. O'Rourke) So you searched the lockbox after opening the backpack and finding it. Did you have any policy that dictated that you did that, at least as far as your department is concerned?

A. Yes, we do.

Q. What is that specifically?

A. States before placing anything in the evidence room it needs to be inventoried. Also states that prior to transport you search the person and items prior to transport.

Q. Any reason why you have that policy at the department?

A. For safety mainly. Items that aren't in a container or backpack for safety so you're not putting anything dangerous in your vehicle.

RP 6. Officer Withrow further explains the jail would not accept a backpack and he would then be forced to take the backpack to the Centralia Police Department for safekeeping. RP 6. Officer Withrow also testified that the Centralia Police Department's safekeeping is in their evidence room. RP 6-7.

Finding 1.3 is supported by substantial evidence contained within the record. The evidence presented at the suppression hearing made it clear that the Centralia Police Department has policies and protocols requiring a search of not only the person but any and all items that were to be placed into safekeeping at the Centralia Police Department. RP 6-7; CP 74. The evidence presented is sufficient to persuade a fair-minded and rational person that Officer Withrow was following the department protocols

for inventorying personal belongings of arrested individuals.

Finding 1.3 was not entered in error.

B. THE WARRANTLESS SEARCH OF THE LOCKED BOX FOUND IN YOUNG'S BACKPACK WAS PERMISSIBLE, THEREFORE THE TRIAL COURT CORRECTLY RULED THAT THE EVIDENCE OBTAINED FROM THE LOCKBOX WAS ADMISSIBLE.

The Washington State Constitution guarantees its citizens the right to not be disturbed in their private affairs except under the authority of the law. Const. art. I, § 7. People have a right to not have government unreasonably intrude on one's private affairs. U.S. Const. amend IV. Probable cause is required to be established prior to the government obtaining a warrant to search. U.S. Const. amend IV. Article One, section seven, of the Washington State Constitution protects the privacy rights of the citizens of Washington State. The right to privacy in Washington State is broader than the right under the Fourth Amendment of the United States Constitution. Const. art. I, § 7; *State v. Eisfeldt*, 163 Wn.2d 628, 634-35, 185 P.3d 580 (2008). Washington State places a greater emphasis on privacy and recognizes individuals have a right to privacy with no express limitations. Const. art. I, § 7; *State v. Ladson*, 138 Wn.2d 343, 348, 979 P.2d 833 (1999).

The general rule is that warrantless searches are considered per se unreasonable. *Coolidge v. New Hampshire*, 403 U.S. 443, 454-55, 91 S. Ct. 2022, 2026, 29 L.Ed.2d 564 (1971). It is the State's burden to show that a warrantless search falls within an exception to this rule. *State v. Houser*, 95 Wn.2d 143, 149, 622 P.2d 1218 (1980), citing *Arkansas v. Sanders*, 448 U.S. 753, 759, 99 S. Ct. 2586, 2590, 61 L.Ed.2d 235 (1979). "The exceptions to the requirement of a warrant have fallen into several broad categories: consent, exigent circumstances, searches incident to a valid arrest, inventory searches, plain view, and *Terry*⁴ investigated stops." *State v. Hendrickson*, 129 Wn.2d 61, 71, 917 P.2d 563 (1996).

1. A Search Of A Person And His Or Her Personal Belongings In That Person's Immediate Control Incident To Arrest Is Permissible.

When a person is under actual, lawful custodial arrest he may be searched incident to that arrest. *United States v. Robinson*, 414 U.S. 218, 224, 94 S. Ct. 467, 38 L.Ed.2d 427 (1973); *State v. O'Neill*, 148 Wn.2d 564, 585, 62 P.3d 489 (2003); *State v. Smith*, 119 Wn.2d 675, 678, 835 P.2d 1025 (1992). The right to search incident to arrest is of long pedigree in English and

⁴ *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868, 20 L. Ed.2d 889 (1968).

American law. *Weeks v. United States*, 232 U.S. 383, 392, 34 S. Ct. 341, 58 L. Ed. 652 (1914).⁵ Because the purpose of the search is to ensure officer safety and the preservation of evidence, only the area within the arrestee's reach is subject to search. *Chimel v. California*, 395 U.S. 752, 755-63, 89 S. Ct. 2034, 23 L.Ed.2d 685 (1969). This is the area from which the arrestee might obtain a weapon or destructible evidence. *Id.*

The search incident to arrest rule is per-se, therefore a law enforcement officer is not required to make fine distinctions regarding whether its officer-safety rationale is satisfied in any individual case:

We do not think the long line of authorities of this Court dating back to *Weeks*, or what we can glean from the history of practice in this country and in England, requires such a case-by-case adjudication. A police officer's determination as to how and where to search the person of a suspect whom he has arrested is necessarily a quick ad hoc judgment which the Fourth Amendment does not require to be broken down in each instance into an analysis of each step in the search. The authority to search the person incident to a lawful custodial arrest, while based upon the need to disarm and to discover evidence, does not depend on what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect.

⁵ Noting that "the right on the part of the Government, always recognized under English and American law, to search the person of the accused when legally arrested . . . has been uniformly maintained in many cases"

United States v. Robinson, 414 U.S. at 235.

The right also applies to searches of all containers in the defendant's possession. *E.g., id.* at 236 (cigarette package containing heroin); *Draper v. United States*, 358 U.S. 307, 314, 79 S. Ct. 329, 3 L.Ed.2d 327 (1954) (search of bag in the defendant's hand at the time of arrest was lawfully incident to arrest). The right is limited to containers of a type from which the defendant "might gain possession of a weapon or destructible evidence." *United States v. Chadwick*, 433 U.S. 1, 14-15, 97 S. Ct. 2476, 53 L.Ed.2d 538 (1977),⁶ *overruled on other grounds by California v. Acevedo*, 500 U.S. 565, 111 S. Ct. 1982 (1991).

The search must be substantially contemporaneous with the arrest and within the same area. *Vale v. Louisiana*, 399 U.S. 30, 34, 90 S. Ct. 1969, 26 L.Ed.2d 409 (1970). A search remote in time or place from the arrest is not incident to it. *E.g., Preston v. United States*, 376 U.S. 364, 367-68, 84 S. Ct. 881, 11 L.Ed.2d 777 (1964);⁷ *Stoner v. California*, 376 U.S. 483, 487, 84 S. Ct. 889, 11

⁶ Disapproving of a search of a 200-pound, double-locked footlocker an hour after the arrest

⁷ In *Preston* the Court found that a search of car at garage, where it was towed after its occupants had been arrested and taken to the police station, was not incident to arrest.

L.Ed.2d 856 (1964).⁸ But a search of the defendant's personal effects within his or her wingspan, made at the time and place of the arrest, is lawful even if by the time the search occurs the defendant is detained and the officer has control of the items. See *United States v. Garcia*, 605 F.2d 349, 352 (7th Cir. 1979), *cert. denied*, 446 U.S. 984 (1980);⁹ *United States v. Mehciz*, 437 F.2d 145, 146-148 (9th Cir. 1971).¹⁰

The United States Supreme Court ruled it was constitutional for a law enforcement officer to search the passenger compartment of an arrestee's automobile incident to arrest. *New York v. Belton*, 453 U.S. 454, 460, 101 S. Ct. 2860, 69 L.Ed.2d 768 (1981). The Court further held, "[i]t follows from this conclusion that the police may also examine the contents of any containers found within the passenger compartment, for if the passenger compartment is within reach of the arrest, so also will the containers in it be within his reach. Such container may, of course, be searched whether open

⁸ In *Stoner* the Court stated, "[T]he search of the petitioner's hotel room in Pomona, California, on October 27 was not incident to his arrest in Las Vegas, Nevada, on October 29."

⁹ Upholding a search in which the defendant dropped her suitcases right before arrest, was moved away while being arrested, and another officer brought the suitcases over and searched them.

¹⁰ Finding a search of the defendant's suitcase, after he was cuffed but in the same spot as the arrest, indistinguishable from *Draper* and therefore approved under *Chimel*.

or closed...” *New York v. Belton*, 453 U.S. at 460-61 (citations omitted).

The Washington State Supreme Court decided that pursuant to the Washington State Constitution and case law a law enforcement officer may search the passenger compartment of a vehicle incident to arrest for evidence and weapons. *State v. Stroud*, 106 Wn.2d 144, 152, 720 P.2d 436 (1986). The Court further held that locked containers found during a search of the passenger compartment of a motor vehicle incident to arrest may not be searched without first obtaining a warrant. *State v. Stroud*, 106 Wn.2d at 152. The Court reasoned that there was a heightened expectation of privacy in a locked container found inside a car. *Id.*

The United State Supreme Court later decided a search of an automobile incident to a recent occupants arrest only pertains to certain limited circumstances. *Arizona v. Gant*, 556 U.S. 332, 351, 129 S. Ct. 1602, 173 L. Ed. 2d 485 (2009). The exceptions allowed by the Supreme Court in *Gant* are (1) if at the time of the search, the passenger compartment of the vehicle is within the arrestee’s reach, and (2) “reasonable to believe the vehicle contains evidence of the offense of arrest.” *Arizona v. Gant*, 556 U.S. at 351. In *Gant*

the crime of arrest was driving on suspended license. Gant was arrested, handcuffed and placed in the back of the patrol car. It was not reasonable to believe that the vehicle would contain evidence of Gant driving on a suspended license.

The United States Supreme Court looked at *Chimel, Belton* and the Fourth Amendment of the United States Constitution when it examined the search incident of a vehicle incident to arrest in *Gant*. See, *New York v. Belton*, 453 U.S. 454; *Chimel v. California*, 395 U.S. 752. The Court discussed how the *Chimel* holding was that a search incident to arrest was justified by the interest of officer safety and evidence preservation. *Arizona v. Gant*, 556 U.S. at 337-38. This interest created an exception to the warrant requirement. *Id.* The Court looked at the reasonableness of a warrantless search and held that automobiles create unique circumstances which justify a search incident to a lawful arrest when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle. *Id.* at 350.

Washington law quickly followed *Gant* in limiting searches of automobiles incident to arrest of a recent occupant of the automobile. *State v. Patton*, 167 Wn.2d 379, 394, 219 P.3d 651 (2009); *State v. Valdez*, 167 Wn.2d 761, 224 P.3d 751 (2009). The

Washington State Supreme Court found that the *Belton* and *Stroud* rule could not survive the heightened privacy guaranteed under Article One, section seven of the Washington State Constitution and therefore effectively eliminated warrantless searches of automobiles except in very limited circumstances. *State v. Valdez*, 162 Wn.2d at 760. In many aspects, the courts have now been treating the privacy rights in an automobile similar to the right of privacy one has in their residence.

The historic justifications for search incident to arrest have been applied by the Washington State Supreme Court. *State v. Smith*, 119 Wn.2d 675. A person who has been arrested has a diminished expectation of privacy. *State v. Jordan*, 92 Wn. App. 25, 30, 960 P.2d 949 (1998), *citing State v. White*, 44 Wn. App. 276, 278, 722 P.2d 118, *review denied*, 107 Wn.2d 1006 (1986). This diminished privacy interest “includes personal possession closely associated with the person’s clothing.” *State v. Jordan*, 92 Wn. App. at 30. Also the property which has been “seized incident to a lawful arrest may be used to prosecute the arrested person for a crime other than the one for which he was initially apprehended.” *State v. Jordan*, 92 Wn. App. at 30.

In *Jordan* police found on two separate occasions closed containers on Jordan when he was arrested on an outstanding warrant. *State v. Jordan*, 92 Wn. App. at 26. The court held that search of the closed containers, a pill bottle and a film canister, were valid searches under the search incident to arrest exception to the warrant requirement. *Id.* at 30.

In *Smith* the officer had to chase Smith down and during a struggle Smith's fanny pack fell off. See, *State v. Smith*, 119 Wn.2d 675. After arresting Smith the officer went back, retrieved the fanny pack and searched it incident to Smith's arrest. *Id.* The Washington State Supreme Court held that the search, incident to arrest, of the fanny pack was permissible and the evidence obtained from that search was admissible. *Id.* at 684. The Court reasoned that "Smith was in actual physical possession of the fanny pack just prior to the arrest, and the fanny pack was within his reach at the moment of arrest. For search incident to arrest purposes, therefore, the fanny pack was in his control at the time of arrest." *Id.* at 682.

In the present case Officer Withrow contacted Young, who was on foot, while Young was wearing a black backpack. CP 73. Young handed Officer Withrow a list which Young stated was a list

of the contents of his backpack. CP 73. Officer Withrow had not asked Young about his backpack. CP 73. Officer Withrow saw a partially, concealed knife, removed the knife which was a double edged straight blade knife. CP 73. Officer Withrow arrested Young and then searched the backpack incident to Young's arrest. CP 74. Officer Withrow found a lockbox inside the backpack that was about two to three pounds and large enough to contain dangerous materials and several weapons. CP 74. Young, without being asked, told Officer Withrow the key was in Young's pocket on his keychain. CP 74. Officer Withrow reached into Young's pocket, retrieved the key and unlocked the box. CP 74. Inside the box was a clear ziplock baggie that contained methamphetamine, a pipe commonly used to smoke methamphetamine, marijuana and other drug paraphernalia. CP 74.

Officer Withrow's search of the backpack and the locked box within the backpack is justified under the search of a person incident to arrest. Young had possession of the backpack up until his arrest. The key to the lockbox was on the keychain in Young's pocket, easily accessible at the time of his arrest. Young was arrested for possession/concealing a dangerous weapon. CP 74. If an officer can search a person incident to arrest, even once they

are handcuffed, for officer safety and destruction of evidence, than a search of the personal belongings that were in the arrestee's custody or control, under the same reasoning is permissible. This would include a locked container that is easily accessible and on the arrestee's person at the time of the arrest pursuant to *Smith*. A person has a diminished expectation of privacy in their person once they are arrested and this diminished expectation would also transfer to their personal belongings in their possession at or near the time of arrest. The trial court properly ruled that the evidence contained within the lockbox was admissible pursuant to a search incident to arrest. Young's convictions should be affirmed.

2. An Inventory Of The Locked Box Found Inside The Backpack Was Permissible Under The Facts Of Young's Case.

The State's position is that the search of the lockbox was a valid search incident to arrest. In the alternative, the State also believes that under the totality of the circumstances in Young's case, the search of the lockbox inside the backpack was also permissible as an inventory.

Unreasonable searches are prohibited by the Fourth Amendment of the United States Constitution. The Washington State Supreme Court has held:

The determinative test, therefore, of the legality of the search is its reasonableness under **all of the circumstances**. What might be deemed a reasonable search of a motor vehicle without a warrant, might not apply to the search of a home, a store, or similar property. It may be admitted that, in some cases, the court will be faced with the difficulty of distinguishing between a reasonable and lawful inventory procedure and an unauthorized exploratory search.

State v. Montague, 73 Wn.2d 381, 389, 438 P.2d 571 (1968)

(emphasis added). In *Montague* the defendant was arrested for a traffic violation and was going to be released on his personal recognizance. *State v. Montague*, 73 Wn.2d at 383. While the officer was driving the defendant back to his car, the officer was informed there was a warrant for the defendant's arrest and the defendant could only be released upon the posting of bail. *Id.* The defendant was returned to the police station and the officer returned to the care for the purposes of preparing the car for impoundment and checking the vehicle's registration. *Id.* The protocol was that the car would be searched for valuables and any valuables discovered would be taken to the police department for safekeeping. *Id.* The officer discovered marijuana in the defendant's car. *Id.* The Supreme Court found that the defendant's Fourth Amendment rights were not violated by the officer searching

the vehicle in preparation for impoundment under the totality of the circumstances in the case. *Id.* at 389-90.

The Washington State Supreme Court has also previously held that closed containers should be inventoried as a whole unit. *State v. Houser*, 95 Wn.2d 143, 156-58, 622 P.2d 1218 (1980). The Court held that under the balancing test set forth by the Court in *Montague*, weighing a person's interest in their personal luggage against societal and governmental interest in inventorying items, a closed piece of luggage should be inventoried as a whole unit absent indication of dangerous contents. *Id.* at 158. In *Houser* police inventoried a closed toiletry case found inside a locked car trunk. The Court found the search impermissible. *Id.* at 159

In the present case, the inventory of Young's backpack and the contents of the lockbox was permissible given the specific facts of this case. Officer Withrow explained that the backpack would have to be taken into the evidence locker at the Centralia Police Department for safekeeping as the jail would not accept the backpack. RP 6-7; CP 73. There was also a departmental policy that any items that were to be placed in a patrol vehicle must be searched for safety purposes. RP 6. Under the totality of the circumstances, it would be unreasonable to expect a police officer

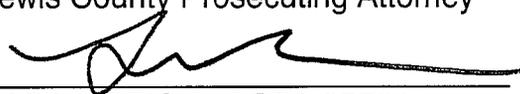
to place items within his patrol car that were not fully searched. Further, it is manifestly unreasonable to expect a police agency to put items in its evidence room without thoroughly inventorying them and searching the items to ensure nothing dangerous is being placed into the evidence room. The potential to contaminate or destroy other evidence or place unsafe objects within a patrol car justifies a complete inventory, including locked and closed containers, in Young's case. There was no one else present for the officer to give the backpack to, leaving Officer Withrow with no choice but to place the backpack and all of its contents in his patrol vehicle. The inventory, including the lockbox was permissible under the facts of this case and Young's convictions should be affirmed.

IV. CONCLUSION

For the reasons argued above this court should affirm Young's convictions.

RESPECTFULLY submitted this 1st day of February, 2012.

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