

**Affirmed and Opinion filed November 2, 2000.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-98-01077-CR**  
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**STACY TYRONE MOORE, Appellant**

**V.**

**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 183<sup>rd</sup> District Court  
Harris County, Texas  
Trial Court Cause No. 768,568**

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**OPINION**

The trial court found the appellant, Stacy Moore, guilty of possession of cocaine, enhanced by prior convictions. The court sentenced Moore to twenty-five years' incarceration.

On appeal, the appellant contends the search was illegal and the fruit of an illegal seizure of his person. Moore was a passenger in an automobile stopped for a traffic violation. The officers observed and smelled marijuana smoke emanating from the car. An officer on Moore's side of the car who thought he saw furtive gestures and plastic placed Moore in his police car and then looked under Moore's seat. The officer found 3.3 grams of cocaine in a baggy on the floorboard.

While he tries to eliminate many reasons the search may have been legal, there was indisputably probable cause to stop and search the vehicle. An officer who has a reasonable suspicion that a motorist committed a traffic violation may stop and detain the motorist to investigate the traffic violation. *Garcia v. State*, 827 S.W.2d937, 944(1992); *Drago v. State*, 553 S.W.2d 375, 377-78 (Tex. Crim. App. 1977). If the officer develops a reasonable suspicion that the motorist is engaged in, or soon will engage in criminal activity, he may continue to detain him for investigation unrelated to the initial traffic stop. *Davis v. State*, 947 S.W.2d 240, 245 (Tex. Crim. App. 1997) (citing *Crockett v. State*, 803 S.W.2d 308, 311 (Tex. Crim. App.1991)). If probable cause develops to believe contraband is concealed within the vehicle, the officer may search the vehicle. *Chambers v. Maroney*, 399 U.S. 42, 48, 90 S.Ct. 1975, 26 L.Ed.2d 419 (1970).

The sight and odor of marihuana smoke alone provide a reasonable suspicion of criminal activity sufficient to justify continued detention until an investigation can be performed. *Mohmed v. State*, 977 S.W.2d 624, 628 (Tex. App.—Fort Worth 1998, pet. ref'd). Contrary to Moore's contention, the police observation of marihuana smoke emanating from a vehicle stopped on a public thoroughfare provides probable cause to search a detainee's vehicle or objects within his vehicle without a warrant. *Hernandez v. State*, 867 S.W.2d 900, 907 (Tex. App.—Texarkana 1993, no writ). Since there was probable cause to search the car, the search was legal. The trial court properly refused to exclude the cocaine. The judgment of the trial court is affirmed.

/s/ Bill Cannon  
Justice

Judgment rendered and Opinion filed November 2, 2000.

Panel consists of Justices Cannon, Draughn, and Lee.\*

Do Not Publish — TEX. R. APP. P. 47.3(b).

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\* Senior Justices Bill Cannon, Joe L. Draughn, and Norman Lee sitting by assignment