

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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Michael A. Coleman,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

June 24, 2021

Court of Appeals Case No.  
21A-CR-282

Interlocutory Appeal from the  
Bartholomew Superior Court

The Honorable James D. Worton,  
Judge

Trial Court Cause No.  
03D01-2004-F4-1758

**Bradford, Chief Judge.**

## Case Summary

[1] After receiving two separate tips that Michael Coleman was attempting to sell illegal firearms, including SKS assault-style rifles, Columbus Police Officer Drake Maddix contacted Phillip Brantley, an established confidential informant (“CI”), for the purpose of verifying the tips. After verifying the information provided by the other CIs, Brantley contacted Coleman under the guise of wanting to purchase a firearm. Brantley arranged to drive to Coleman’s residence and pick up Coleman, at which time Coleman placed the firearm in question in the trunk of Brantley’s vehicle. As he was leaving Coleman’s residence, Brantley committed a mundane traffic infraction and Officer Maddix initiated a traffic stop. Brantley then consented to a search of the vehicle, during which officers recovered the firearm in question. Coleman was placed under arrest and during a search incident to his arrest, officers discovered methamphetamine and marijuana on his person.

[2] Coleman was subsequently charged with Level 4 felony unlawful possession of a firearm by a serious violent felon, Level 6 felony possession of methamphetamine, and Class B misdemeanor possession of marijuana. This interlocutory appeal follows the denial of Coleman’s motion to suppress the evidence recovered during the traffic stop and following Coleman’s arrest. We affirm.

## Facts and Procedural History

- [3] On March 29, 2020, an unidentified CI reported to Columbus Police Detective Skylar Berry that Coleman was trying to sell ten to twelve SKS rifles<sup>1</sup> that had been modified to be fully automatic for \$250.00 each. The unidentified CI also provided Detective Berry with a purported picture of one of the rifles. The following day, Detective Berry forwarded the information to the Intelligence Led Police Unit (“ILPU”).
- [4] Officer Drake Maddix, the member of the ILPU who received the information relating to the tip from Detective Berry, had also received an anonymous tip indicating that Coleman was trying to sell an SKS rifle with a bayonet affixed to it. Officer Maddix reached out to Brantley, an established CI, with whom he had worked in the past and had found to be trustworthy and reliable. Brantley confirmed that Coleman possessed an SKS rifle with a bayonet affixed to it and wanted to sell it.
- [5] Brantley agreed to contact Coleman under the guise of showing interest in purchasing the rifle. Brantley, who was not obligated to assist Officer Maddix, acted as “his own person” and helped determine how the encounter would occur. Appellant’s App. Vol. II p. 45. Brantley indicated that he was

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<sup>1</sup> Both the Indiana Supreme Court and this court have previously referred to SKS rifles as assault rifles. *See Turner v. State*, 953 N.E.2d 1039, 1043 (Ind. 2011) (noting that the type of cartridge cases recovered from the scene of the crime accommodated high velocity caliber bullets used in AK-47 and SKS-type assault rifles); *Stephenson v. State*, 742 N.E.2d 463, 470–71 (Ind. 2001) (referring to the rifle in question as an SKS assault rifle); *Stewart v. State*, 945 N.E.2d 1277, 1283 n.10 (Ind. Ct. App. 2011) (noting that the ammunition in question is most commonly used in Russian SKS or AK-47 type assault rifles); *Perez v. State*, 872 N.E.2d 208, 210 (Ind. Ct. App. 2007) (referring to the rifle in question as an SKS assault rifle).

comfortable picking up and transporting Coleman in his vehicle. He and Officer Maddix discussed the possibility that he would commit a mundane traffic infraction, such as turning without first engaging his turn signal, once Coleman was in the vehicle.<sup>2</sup> Appellant's App. Vol. II p. 46. After coordinating with Officer Maddix, Brantley called Coleman, inquired about the firearm, and arranged a meeting with Coleman.

[6] When Brantley arrived at Coleman's residence, Detective Travis Harbaugh was surveilling the area. Detective Harbaugh observed Brantley pull into the alleyway next to Coleman's residence and a female, who appeared to be acting as a lookout, come from the residence and speak to Brantley. A short time later, Coleman exited the residence, placed a large item wrapped in a blanket in the trunk of Brantley's vehicle, and sat down in the front passenger seat. After the vehicle pulled away from Coleman's residence, Detective Harbaugh observed Brantley commit a signaling violation, *i.e.*, turning without first using a turn signal.

[7] Detective Harbaugh then advised Officer Maddix over the radio of the observed traffic violation, after which Officer Maddix initiated a traffic stop. When he approached the vehicle, Officer Maddix informed Brantley that he was being stopped for having committed a traffic infraction. Brantley provided Officer

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<sup>2</sup> Although Officer Maddix was aware that Brantley's driver's license had previously been suspended, he was not aware of the status of Brantley's license on the day in question.

Maddix with his identification, admitting that his driver's license was suspended. Coleman also provided his identification.

[8] After Officer Maddix removed Brantley and Coleman from the vehicle, Brantley consented to a search of the vehicle. During the search, Officer Maddix located the item which Detective Harbaugh had observed Coleman place in the trunk and determined the item to be an SKS rifle with a bayonet affixed to it. A quick search of Coleman's criminal history revealed that he had prior convictions for carjacking and robbery. Coleman was eventually placed under arrest and, upon being asked if he had anything illegal on his person, indicated that he had both marijuana and methamphetamine in his possession. Officer Maddix recovered what he recognized as raw marijuana and two corner-cut clear plastic bags containing "a crystal rock substance [that was] consistent with the appearance of methamphetamine" from Coleman's pockets during a search incident to his arrest. Appellant's App. Vol. II p. 56. The substance field tested positive for methamphetamine.

[9] On April 1, 2020, the State charged Coleman with Level 4 felony unlawful possession of a firearm by a serious violent felon, Level 6 felony possession of methamphetamine, and Class B misdemeanor possession of marijuana. On December 22, 2020, Coleman moved to suppress all of the evidence recovered in connection with the search of Brantley's vehicle. The State filed a response to Coleman's motion on January 20, 2021. That same day, the trial court denied Coleman's motion "without a hearing." Appellant's App. Vol. II p. 11.

The trial court subsequently certified the case for interlocutory appeal, and we accepted jurisdiction.

## Discussion and Decision

### I. Standard of Review

[10] We review a trial court’s denial of the Defendant’s motion to suppress based upon a standard similar to that employed for other sufficiency of evidence issues. *Litchfield v. State*, 824 N.E.2d 356, 358 (Ind. 2005). Although “[w]e do not reweigh the evidence” and we generally “consider conflicting evidence most favorably to the trial court’s ruling,” *id.*, the Court will consider “uncontradicted evidence to the contrary, to decide whether the evidence is sufficient to support the ruling.” *Holder v. State*, 847 N.E.2d 930, 935 (Ind. 2006). Further, when an appellant’s challenge to such a ruling is premised on a claimed constitutional violation, we review the issue de novo because it raises a question of law. *Guilmette v. State*, 14 N.E.3d 38, 40–41 (Ind. 2014).

*Pinner v. State*, 74 N.E.3d 226, 229 (Ind. 2017).

### II. Analysis

[11] At the outset, we note that to the extent that Coleman advocates for us to adopt a bright-line rule regarding acceptable police behavior during operations involving confidential informants, the United States Supreme Court has cautioned against such bright-line rules in Fourth Amendment cases, holding that “in this area, each case must be judged on its own particular facts.” *Lewis v. U.S.*, 385 U.S. 206, 212 (1966). Likewise, the Indiana Supreme Court has

held that when considering Article I, Section 11, claims, courts look to the totality of the circumstances. *See Litchfield*, 824 N.E.2d at 359 (“The legality of a governmental search under the Indiana Constitution turns on an evaluation of the reasonableness of the police conduct under the totality of the circumstances.”). Following these precedents, we decline to adopt any bright-line rule regarding police behavior and instead look to the facts and circumstances of this particular case in conducting our review.

[12] Coleman contends that the trial court erred in denying his motion to suppress because the challenged evidence was recovered following an illegal search. Coleman’s argument is most accurately framed as whether the challenged evidence should have been deemed inadmissible because it was obtained as the result of police misconduct. Specifically, Coleman argues that the evidence should have been suppressed because the officers acted outrageously and dangerously when pre-arranging the circumstances surrounding the stop of Brantley’s vehicle. In support, Coleman cites to a panel of this court’s decision in *Osborne v. State*, 805 N.E.2d 435 (Ind. Ct. App. 2004), *trans. denied*.

[13] In *Osborne*, David Turner told police that “he would be bringing Osborne to French Lick and that Osborne had cocaine in his possession.” 805 N.E.2d at 437. Police arranged for Turner, who was on home detention and told them that “he had been drinking all day and had consumed cocaine,” to drive through town over the posted speed limit so that they could stop his car and search Osborne for cocaine. *Id.* This plan was carried out, and Osborne was charged with cocaine possession. *Id.* at 438. He “filed a motion to suppress the

evidence seized during the traffic stop[,]” which was denied. *Id.* On interlocutory appeal, this court concluded that the evidence recovered in connection to the traffic stop should have been excluded because the police officer’s decision to arrange for a knowingly intoxicated person to drive as part of a police operation was unreasonable and “outrageously dangerous.” *Id.* at 441.

[14] Unlike in *Osborne*, we do not believe that Officer Maddix’s actions in this case qualify as outrageously dangerous. By pre-arranging the possibility that Brantley would turn at a stop sign without first engaging his turn signal, Officer Maddix, who did not know Brantley was a suspended driver, did not suggest that Brantley commit an outrageously dangerous act but rather a mundane traffic violation that created minimal risk of harm to the general public. Thus, the factual circumstances of the two cases are simply not comparable. Brantley was working as a CI for the Columbus Police Department when he agreed to act as a potential buyer in a situation somewhat akin to a controlled drug buy and to transport Coleman and the firearm in question. Similar to drug transactions, it is not unreasonable to assume that there is a potential for violence in circumstances relating to transportation and/or sale of illegal firearms. Thus, under the facts and circumstances of this case, we conclude that Officer Maddix acted reasonably in attempting to decrease the above-



mentioned potential for violence by pre-arranging the traffic stop at a location along the pre-arranged route.<sup>3</sup>

[15] The judgment of the trial court is affirmed.

Brown, J., and Tavitas, J., concur.

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<sup>3</sup> Coleman limits his claim on appeal, arguing that the evidence should have been suppressed because, similar to *Osborne*, the police misconduct was so outrageous and dangerous so as to make the traffic stop unreasonable and to warrant exclusion of the evidence. As such, we limit our review under the Fourth Amendment of the United States Constitution and Article I, Section 11, of the Indiana Constitution to the issue raised by Coleman.