

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



---

ATTORNEY FOR APPELLANT  
Matthew D. Anglemeyer  
Marion County Public Defender  
Appellate Division  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE  
Theodore E. Rokita  
Attorney General  
Courtney Staton  
Deputy Attorney General  
Indianapolis, Indiana

---

## IN THE COURT OF APPEALS OF INDIANA

---

Michelle Gregorio,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

March 14, 2023  
Court of Appeals Case No.  
22A-CR-1436  
Appeal from the  
Marion Superior Court  
The Honorable  
Christina Klineman, Judge  
Trial Court Cause No.  
49D17-2111-F6-35238

**Memorandum Decision by Judge Vaidik**  
Judges Tavitas and Foley concur.

**Vaidik, Judge.**

## Case Summary

- [1] Michelle Gregorio appeals the trial court’s denial of her motion to suppress evidence obtained during a strip search. We affirm.

## Facts and Procedural History

- [2] On May 27, 2021, Gregorio was arrested for felony synthetic identity deception and several other offenses and placed in the Marion County Jail. On June 1, a fellow inmate, Shannon Davis, told Marion County Sheriff’s Deputy Jennifer Highwood that Gregorio “had drugs inside her vagina.” Tr. p. 14. Deputy Highwood went to Gregorio’s cell, asked her to step out, and handcuffed her. When Deputy Highwood asked her about the contraband, Gregorio started “acting very erratic,” making “quick movements,” and “speaking very fast” and “wasn’t making any sense as to what she was saying[.]” *Id.* at 14-15. Deputy Highwood called for a strip search.
- [3] Another deputy, Felicia Clark, performed the strip search in the female booking room. Deputy Clark and Gregorio were the only people in the room. Gregorio removed each article of her clothing until she was fully nude. The next step would have been for Gregorio to face the wall, squat, bend at the waist, and cough three times. However, before she did so, she said she was on her menstrual cycle and needed to use the restroom. Deputy Clark let her use the restroom. When Gregorio sat on the toilet, “she appeared to be a little antsy or

jittery[.]” *Id.* at 9. Deputy Clark said she wouldn’t watch Gregorio use the toilet but told her not to flush until the contents of the toilet could be examined. As Gregorio stood up from the toilet, “there was something in her hand that she was trying to put down the drain[.]” *Id.* Deputy Clark took the item, and a preliminary test revealed that it contained 1.27 grams of methamphetamine.

[4] The State charged Gregorio with Level 6 felony possession of methamphetamine and later added charges of Level 5 felony possession of methamphetamine and Level 6 felony obstruction of justice. Gregorio moved to suppress the methamphetamine, arguing that the strip search violated the Fourth Amendment to the U.S. Constitution and Article 1, Section 11 of the Indiana Constitution. After a hearing, the trial court denied the motion.

[5] Gregorio then sought and received permission to bring this interlocutory appeal.

## Discussion and Decision

[6] Gregorio contends the trial court erred by denying her motion to suppress. Because the motion challenged the constitutionality of a search and the facts are undisputed, our review is *de novo*. *Marshall v. State*, 117 N.E.3d 1254, 1258 (Ind. 2018).

### I. Fourth Amendment

[7] Gregorio argues the strip search violated the Fourth Amendment, which provides, in relevant part, “The right of the people to be secure in their persons,

houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]” Generally, to determine the reasonableness of a search under the Fourth Amendment, we ask whether there was a search warrant and, if not, whether an exception to the warrant requirement applies. *See Ramirez v. State*, 174 N.E.3d 181, 190 (Ind. 2021). However, the parties agree that the reasonableness of a strip search of a pretrial detainee like Gregorio turns not on the existence of a warrant or a warrant exception but on a consideration of the four factors set forth by the U.S. Supreme Court in *Bell v. Wolfish*: (1) the scope of the particular intrusion, (2) the manner in which it is conducted, (3) the justification for initiating it, and (4) the place in which it is conducted. 441 U.S. 520, 559 (1979).

[8] Gregorio “does not take issue with the manner in which this search was conducted or the place it was conducted.” Appellant’s Br. p. 20. Regarding the scope of the intrusion, she concedes that no cavity search occurred because she was allowed to use the bathroom and was caught trying to dispose of the drugs. *See* Appellant’s Reply Br. p. 9. So Gregorio’s argument comes down to the justification for initiating the search. She contends that Deputy Highwood’s “sole justification was an uncorroborated tip from an unreliable inmate that Gregorio had drugs in her vagina.” Appellant’s Br. p. 20. But this ignores two important facts. First, the reliability of Davis’s tip was bolstered by the fact that Davis faced criminal liability if she made a false report. Second, Deputy Highwood didn’t order the strip search based solely on Davis’s tip. She asked Gregorio about the allegation, and Gregorio responded erratically, heightening

the suspicion. Considering the four factors from *Bell*, we cannot say the strip search was unreasonable under the Fourth Amendment.

## II. Article 1, Section 11

[9] Gregorio also argues that even if the strip search didn't violate the Fourth Amendment, it violated Article 1, Section 11 of the Indiana Constitution. Like the Fourth Amendment, Article 1, Section 11 protects against "unreasonable search and seizure[.]" Despite this similar wording, we interpret Article 1, Section 11 independently and "ask whether the State has shown that a particular search or seizure was reasonable based on the totality of the circumstances." *Ramirez*, 174 N.E.3d at 191. Reasonableness in this context generally turns on a balance of (1) the degree of concern, suspicion, or knowledge that a violation has occurred, (2) the degree of intrusion the method of the search or seizure imposes on the citizen's ordinary activities, and (3) the extent of law-enforcement needs. *Litchfield v. State*, 824 N.E.2d 356, 361 (Ind. 2005).

[10] Balancing those factors here, we conclude that the strip search was reasonable. The degree of intrusion was unquestionably high because of "the indignity and personal invasion necessarily accompanying a strip search," *Edwards v. State*, 759 N.E.2d 626, 630 (Ind. 2001), but so were the degree of suspicion and the extent of law-enforcement needs. Another inmate, Davis, told Deputy Highwood that Gregorio had drugs in her vagina. Gregorio notes that Davis has a history of crimes of dishonesty (robbery and theft) and argues that tips

from inmates are inherently unreliable, but again, Davis's reliability was strengthened because Davis risked criminal liability if she made a false report. Moreover, when Deputy Highwood confronted Gregorio about Davis's allegation, Gregorio acted and spoke erratically.

[11] Once Deputy Highwood had reason to believe that Gregorio was concealing drugs, there was an urgent need to search her. Performing the strip search served two important purposes: (1) protecting Gregorio from the danger of drugs and (2) preventing the circulation of contraband in the jail. *See Reagan v. State*, 157 N.E.3d 1266, 1272 (Ind. Ct. App. 2020) ("In general, law enforcement has a strong interest in protecting arrestees and inmates and keeping jails free from contraband."), *trans. denied*. Gregorio emphasizes that she could have been held in a monitored cell so a warrant could be obtained, but that would have left her in danger while also giving her an opportunity to destroy evidence. Under the totality of the circumstances, the strip search was reasonable under Article 1, Section 11.

[12] The trial court did not err by denying Gregorio's motion to suppress.

[13] Affirmed.

Tavitas, J., and Foley, J., concur.