

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**Respondent,**

**v.**

**DAMIUN D. WILLIAMS,**

**Appellant.**

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DOCKET NUMBER WD73550

**Date: October 30, 2012**

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Appeal from:  
Jackson County Circuit Court  
The Honorable Ann Mesle, Judge

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Appellate Judges:  
Division Two: Joseph M. Ellis, P.J., Alok Ahuja and Mark D. Pfeiffer, JJ.

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Attorneys:  
Richard A. Starnes, Jefferson City, MO, for appellant.  
Richard W. Johnson, Kansas City, mO, for respondent.

**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**COURT OF APPEALS -- WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.**

**DAMIUN D. WILLIAMS,**

**Respondent,**

**Appellant.**

WD73550

Jackson County

Before Division Two Judges: Joseph M. Ellis, P.J., Alok Ahuja and Mark D. Pfeiffer, JJ.

On March 26, 2009, Kansas City police officers stopped Damion Williams's vehicle for running a stop sign. After determining that Williams was driving with a suspended license, the officers arrested and handcuffed him, and then conducted a warrantless search of the vehicle. As part of the search, an officer lifted up the leather or leather-like boot or cover over the vehicle's gearshift lever, and discovered a lemon extract bottle containing a liquid PCP solution.

Williams was charged with one count of possession of a controlled substance in violation of § 195.202, RSMo. Williams filed a motion to suppress the evidence seized during the vehicle search. The trial court denied the motion to suppress, finding that the search was a lawful inventory search conducted incident to the officers' decision to tow Williams's vehicle. The trial court also found Williams guilty of possession of a controlled substance. Williams appeals.

**REVERSED AND REMANDED.**

**Division Two holds:**

Inventory searches are a well-defined exception to the warrant requirement of the Fourth Amendment. The purposes of an inventory search exception are (1) the protection of the vehicle owner's property, (2) the protection of the police from false claims of lost property, and (3) the protection of the police from potential danger. An inventory search is valid where reasonable police regulations for inventory procedures are administered in good faith. An inventory search must not be a ruse for a general rummaging in order to discover incriminating evidence.

Adherence to established police department procedures is essential to the lawfulness of an inventory search. In this case, the officers breached the Kansas City Police Department's

inventory policy in multiple ways; considered together, these circumstances lead us to conclude that the search of Williams's vehicle was not a lawful inventory search.

First, we see nothing in the Kansas City Police Department's policy that authorized the officers to search under the leather or leather-like gearshift boot. Generally a search for, and search of, hidden compartments is not authorized as part of an inventory search, since a vehicle owner has no legitimate claim for protection of property which is hidden. Nevertheless, a law enforcement officer may be entitled to search hidden compartments if the circumstances in plain view during the conduct of a lawful inventory indicate the presence of the hidden compartment or potential storage space. Here, however, the officer who conducted the search offered no testimony that the gearshift cover was noticeably askew before she moved it. The officer also searched in a second area unauthorized under the inventory policy: in the interior of the vehicle's gas tank. The search of this second, plainly unauthorized area also suggests that the search was not a true inventory.

In addition, the officers failed to document the contents of the vehicle, and the disposition of those contents, as required by the police department's policy. They failed to itemize property of negligible value, despite their acknowledgment that such an itemization was required by the Kansas City Police Department's policy. They also failed to document the return of two items of valuable property (two cell phones) to Williams, despite the requirement of the policy that the release of any valuable property be documented.

The officer conducting the search did not have any implements in her possession to document the vehicle's contents as she was conducting her search, and the officer who actually completed the inventory did not even look for the necessary report forms until the search was well underway. Further, although the officers testified that they would normally give a driver the opportunity to have a third party retrieve the vehicle before making a decision to tow it, they did not do so in this case. Finally, the video recording from the patrol vehicle's dashboard camera reflects that the decision to tow the vehicle was made well after the search had begun, based on the fact that the search had uncovered incriminating evidence.

Considering the totality of the circumstances, the search conducted in this case was not a lawful inventory search, but was instead an investigative search for incriminating evidence. No justification was offered for conducting such an investigative search without a warrant. Williams's motion to suppress the evidence discovered during the vehicle search should have been granted.

**Opinion by: Alok Ahuja, Judge**

October 30, 2012

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