

Missouri Court of Appeals
Southern District

Background

A patrol officer pulled over Burns' vehicle after it failed to stop at a stop sign. A warrantless search of Burns' vehicle yielded a bag of methamphetamine. Charged with felonious drug possession, Burns moved to suppress the seized drug, arguing the search was unlawful and his consent was not voluntary. After a hearing, the trial court suppressed the evidence without explanation and this interlocutory appeal followed.

Legal Principles and Analysis

We review *de novo* whether the officer's conduct violated the Fourth Amendment. ***State v. Pesce***, 325 S.W.3d 565, 569 (Mo. App. W.D. 2010). "An officer may at any time ask a citizen whether he has contraband in his car and may ask for permission to search; if consent is given without coercion, the subsequent search is not prohibited by the Fourth and Fourteenth Amendments." ***Id.*** (quoting ***State v. Woolfolk***, 3 S.W.3d 823, 831 (Mo. App. W.D. 1999)).

Burns does not dispute the traffic stop's validity.² Credibility is not at issue in the dashcam video, in which Burns freely consents to a vehicle search and which flatly refutes Burns' claims of involuntariness and illegal post-stop detention. That ends our *de novo* constitutional analysis. ***Id.*** The trial court erred in suppressing the evidence. We reverse and remand for further proceedings consistent with this opinion.

² Burns' counsel during the motion to suppress hearing stated: "We don't object to the stop. We don't object to the investigation, up to the point where he is given a breathalyzer test[.]"