IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Appellant,

v.

KYLE MATTHEW LEDBETTER,

Respondent.

DOCKET NUMBER WD83251

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: May 5, 2020

APPEAL FROM

The Circuit Court of Cole County, Missouri
The Honorable Jon E. Beetem, Judge

JUDGES

Division Two: Pfeiffer, P.J., and Ahuja and Witt, JJ. CONCURRING.

ATTORNEYS

Wm. Locke Thompson, Prosecuting Attorney, and Scott E. Fox, Assistant Prosecuting Attorney, Jefferson City, MO, Attorneys for Appellant.

Daniel E. Hunt, Jefferson City, MO, Attorney for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Appellant,
v.
KYLE MATTHEW LEDBETTER, Respondent.

WD83251 **Cole County**

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, and Alok Ahuja and Gary D. Witt, Judges

The State of Missouri (the "State") brings this interlocutory appeal, challenging the trial court's grant of Mr. Kyle Ledbetter's ("Ledbetter") motion to suppress evidence seized in a warrantless search of his vehicle after he was arrested, including incriminating statements made by Ledbetter after he was made aware of the fruit of the unlawful search.

Employees allegedly saw Ledbetter shoplifting a sweatshirt from a store. Ledbetter refused employee requests to stop and left the premises in a car. Police were notified, and thereafter an officer began investigating by conducting interviews of the employee witnesses at the store. A police dispatch with a description of Ledbetter's vehicle and a description of Ledbetter was radioed to law enforcement in the area. Then an officer initiated a stop of the vehicle matching the dispatch and encountered Ledbetter, where he instructed Ledbetter to show his hands and exit the vehicle and Ledbetter was cooperative and voluntarily complied. Once Ledbetter had exited the vehicle, the officer patted Ledbetter down to check for weapons and, while Ledbetter was a safe distance from the vehicle, the officer then proceeded to search the glove box, center console, and underneath the seats of Ledbetter's vehicle to check for weapons. While doing so, he observed a McDonald's sack in the driver's seat, which was open and visibly contained a cheeseburger, fries, and a small, zipped first aid kit.

By this time, a second officer arrived on the scene and placed Ledbetter in handcuffs, though at no time was Ledbetter ever told whether or why he was being placed under arrest. Once Ledbetter was in handcuffs and secured in the back of the patrol car, the first officer proceeded to conduct a warrantless search of the McDonald's sack and the first aid kit contained therein without Ledbetter's consent, resulting in the discovery of a clear plastic, circular container with white crystalline substance that the officer recognized from observation and training to be methamphetamine. In the first aid kit, the officer also found a sock, which contained pipes used to smoke methamphetamine. After observing the officer search the contents of the first aid kit, Ledbetter made incriminating statements that he knew drugs and drug paraphernalia were inside the kit.

Ledbetter was later charged with possession of a controlled substance. Ledbetter filed a motion to suppress evidence from the warrantless search of the first aid kit and all evidence

discovered as a product of the warrantless search. Following a hearing, the trial court sustained the motion. The State timely filed this interlocutory appeal.

AFFIRMED.

Division Two holds:

When a second officer arrived at the scene, placed Ledbetter in handcuffs and physically restrained Ledbetter in the back of the patrol car—all while never advising a cooperative Ledbetter *why* he was being physically restrained—the initial *Terry* stop was elevated to an arrest. The McDonald's sack was *not* part of Ledbetter's person and was *not* the product of a search of Ledbetter's person incident to arrest—either contemporaneously or subsequently thereafter. The first officer's search of the first aid kit was not reasonable, as it was not of an area of the vehicle in which the evidence of the offense for which Ledbetter was being investigated might be found. The subject search of the first aid kit was not a valid warrantless search incident to arrest. Because the officer's search of Ledbetter's vehicle and first aid kit was performed without a warrant and did not fall under any specifically established and well-delineated exception, it was unreasonable. Because the search was unreasonable under the Fourth Amendment, the trial court's grant of Ledbetter's motion to suppress was not clearly erroneous.

Opinion by: Mark D. Pfeiffer, Presiding Judge May 5, 2020

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.