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## ***LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH***

**By Don Hays**

Month of December – 2025 - ALTERNATIVE

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## **LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH**

### **Month of December - 2025 - ALTERNATIVE**

#### **People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025.**

**THE CASE:** Officers stopped a car and found a firearm inside. Was the search legal? Was the defendant guilty of a Weapons offense?

**FACTS:** At approximately 12:15 a.m. on August 29, 2023, Officer A was on patrol in an unmarked squad car when he saw a red Toyota sedan in front of him at a red traffic light. The intersection allowed only right or left turns, but the driver of the Toyota did not activate his turn signal. While waiting for the traffic light to change, Officer A ran the Toyota's license plate registration and learned that the owner of the vehicle was the 19-year-old defendant. Officer A knew defendant through previous police contacts involving burglary, "fleeing to elude," and gang membership. Officer A also reviewed defendant's "prior incidents" that included unlawful use of a weapon, unlawful possession of cannabis with intent to deliver, and burglary. Officer A called a K-9 unit to perform a "free-air sniff" of defendant's vehicle. After defendant turned without activating his turn signal, Officer A activated his emergency lights and defendant came to a stop. There were no passengers in defendant's vehicle. Defendant opened the center console and handed Taylor his registration, insurance, and driver's license without incident.

At approximately 12:17 a.m., Officer B had arrived with Rex, a dog that was trained to detect cannabis (both burnt and raw), cocaine, methamphetamine, and heroin. Officer B and Rex were trained and certified together by the State of Illinois narcotics team. Officer B asked defendant to exit his vehicle and defendant complied. Officer B did not smell or see any cannabis or see a firearm in defendant's vehicle. Officer B commanded Rex to conduct a free-air sniff, and he walked Rex around defendant's vehicle. Rex scratched at the front driver's side door or window, indicating a positive alert. Officer B then conducted a probable cause search of defendant's vehicle and located a partially sealed plastic bag in the driver's door pocket that contained "cannabis residue" and a black cylinder container that also contained "residual cannabis." When Officer B opened these items, he also saw "small bits [flakes] of [a] green leafy substance and [he] could also smell the odor of cannabis." Officer B explained that both the plastic bag and the container found in the driver's door pocket contained "cannabis shake." [Cannabis shake consists of "remnants of the cannabis flower that has fallen off. It is fresh, not burnt, cannabis prior to being smoked."]. Officer B then searched the driver's side area and looked beneath the driver's seat, where he found a firearm. The firearm was not visible until he looked under the driver's seat. The firearm was a loaded 9-millimeter handgun that was not in any type of case or covering. Garcia was thereafter charged with several weapons offenses. Prior to his trial, Garcia moved to suppress the evidence against him.

Following a hearing on Garcia's motion to suppress, the trial court denied Garcia's motion and, following a bench trial, Garcia was convicted as charged.

**ARGUMENTS:** On appeal, defendant argues (1) the trial court erred in denying his motion to quash and suppress because the police lacked probable cause to search his vehicle based solely on the positive alert from a trained police dog and (2) the State failed to prove beyond a reasonable doubt that he knowingly possessed a firearm found under the driver's seat of his car.

**ISSUE #1: SEARCH AND SEIZURE (Probable Cause to Search):** Did the police lack sufficient probable cause to justify a warrantless search of Garcia's vehicle? **(No).**

**THE LAW:** **A).** The exclusionary rule may be invoked by the victim of an unlawful search when the People seek to introduce evidence uncovered by an unlawful search. **B).** Under the "fruit of the poisonous tree doctrine," a Fourth Amendment violation is the poisonous tree, and any evidence obtained as a result of that violation is the

fruit. **C).** When reviewing trial court's ruling on motion to suppress, the trial court's factual findings will be reversed only if they are against the manifest weight of evidence; however, an appellate court reviews de novo the ultimate legal determination as to whether suppression was warranted. **D).** Generally, where a search is conducted without a warrant supported by probable cause and approved by a judge or magistrate, it is per se unreasonable; however, there are exceptions to the general rule, including an exception for searches of vehicles. **E).** A warrantless search of an automobile is an exception to the warrant requirement, due to its transient nature and the challenge of obtaining a warrant before the vehicle escapes the jurisdiction. **F).** Even without a search warrant, probable cause is required to search a vehicle. **G).** Probable cause to conduct warrantless search of vehicle exists when, based on the totality of the circumstances, there is a fair probability that contraband or evidence of a crime will be found in a particular place. **H).** A trained drug-detection dog's alert on a vehicle is an acceptable method to establish probable cause for a warrantless search. **I).** The ultimate question in determining whether a trained drug-detection dog's alert on a vehicle establishes probable cause for a warrantless search is whether all the facts surrounding the dog's alert, viewed through the lens of common sense, would make a reasonably prudent person think that a search would reveal contraband or evidence of a crime; a sniff is up to snuff when it meets that test.

**CONCLUSIONS AND REASONING:** The appellate court concluded that the trained drug-detection dog's positive alert on defendant's vehicle during lawful traffic stop was sufficient to provide probable cause for police officers to conduct warrantless search of vehicle, despite defendant's argument that dog was trained to detect cannabis, regardless of its legality. **WHY:** *The defendant could not lawfully possess any cannabis because he was under 21 years of age; there was no indication that when the dog alerted, he was most likely detecting burnt cannabis, as opposed to one of the illegal items on his olfaction palate; and, indeed, the officers found raw cannabis in the driver's door pocket, and the totality of facts and circumstances known to the officers at the time of the search, which were indicative of drug activity, included more than just the dog's positive alert.* U.S. Const. Amend. 4; Ill. Const. art. 1, § 6; 410 Ill. Comp. Stat. Ann. 705/10-5; 720 Ill. Comp. Stat. Ann. 550/4.

**ISSUE #2: REASONABLE DOUBT (UW – Constructive Possession):** Was sufficient evidence introduced to support a finding that Garcia constructively possessed the firearm? (Yes).

**THE LAW:** **A).** The standard for reviewing sufficiency of evidence to support conviction, that is, whether any rational trier of fact could have found essential elements of crime beyond reasonable doubt, applies whether evidence is direct or circumstantial and does not allow reviewing court to substitute its judgment for that of fact finder on issues involving witness credibility and weight of the evidence. **B).** In reviewing sufficiency of evidence to support conviction, appellate court will not retry a defendant, and on review, court must draw all reasonable inferences from evidence in favor of State. **C).** The People establish a violation of Firearm Owner's Identification Card (FOID) Act by demonstrating that (1) defendant knowingly possessed firearm and (2) knew he did not have valid FOID card. 430 Ill. Comp. Stat. Ann. 65/2(a)(1). **D).** “Constructive possession” of contraband exists where defendant has knowledge of presence of contraband and exercises immediate and exclusive control over location where it was found. **E).** Proof that defendant had control over premises where contraband is located gives rise to inference of knowledge and possession of that contraband.

**CONCLUSIONS AND REASONING:** The appellate court concluded that there was sufficient evidence to prove that the defendant had control over the premises where the firearm was located in his vehicle during a lawful traffic stop, so as to support a finding that he constructively possessed the firearm, as required to convict him of the unlawful possession of a firearm without a firearm owner's identification (FOID) card. **WHY:** *The defendant was the owner of the vehicle where the firearm was located; the defendant was the sole occupant of the vehicle at the time of the stop; and the firearm was found directly under the defendant's seat.* 430 Ill. Comp. Stat. Ann. 65/2(a)(1).

**ISSUE #3: REASONABLE DOUBT (UW – Knowledge):** Did the People properly prove that Garcia had knowledge of the firearm in his car? (Yes).

**THE LAW:** **A).** Where possession of contraband has been shown, knowledge of contraband, as would support finding of constructive possession, can be inferred from surrounding facts and circumstances. 720 Ill. Comp. Stat. Ann. 5/4-5. **B).** Knowledge of contraband, as would support finding of constructive possession, is often proven with circumstantial evidence, and at least in some settings, knowledge may be established with reference to what reasonable person would know under circumstances. 720 Ill. Comp. Stat. Ann. 5/4-5.

**CONCLUSIONS AND REASONING:** There was sufficient evidence that the defendant had knowledge of the firearm found in his vehicle during this valid traffic stop, so as to support a finding that he constructively possessed the firearm, as required to convict him of the unlawful possession of a firearm without a firearm owner's identification (FOID) card. **WHY:** *There was no dispute that the defendant owned vehicle, the defendant was sole occupant of the vehicle at the time of the stop, an uncased and loaded firearm was directly under the driver's seat; the defendant's DNA was found on the firearm; and when a police officer asked the defendant if there was anything illegal in the vehicle, the defendant responded that his girlfriend owned a firearm and used his vehicle to go to the firing range.* 430 Ill. Comp. Stat. Ann. 65/2(a)(1); 720 Ill. Comp. Stat. Ann. 5/4-5.

**RESULT:** The appellate court affirmed Garcia's conviction and sentence.

## **QUIZ QUESTIONS FOR THE MONTH OF OCTOBER – 2025 - ALTERNATIVE**

### **People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025.**

1. Is a warrantless search generally considered to be unreasonable and illegal in Illinois?
  - a. Yes.
  - b. No.
2. The exclusionary rule may be invoked when an unlawful search has been committed.
  - a. True.
  - b. False.
3. In Illinois, is a drug dog's alert on a vehicle now generally sufficient to establish probable cause to search a suspect vehicle?
  - a. Yes.
  - b. No.
4. In this case, the appellate court determined that the People failed to prove that the defendant constructively possessed the firearm discovered inside of his car, and they failed to prove that the defendant had knowledge of the firearm.
  - a. True.
  - b. False.

**QUIZ QUESTIONS FOR THE MONTH OF OCTOBER – 2025 - ALTERNATIVE**

**People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025.**

1. Is a warrantless search generally considered to be unreasonable and illegal in Illinois?  
**a. Yes.** Generally, where a search is conducted without a warrant supported by probable cause and approved by a judge or magistrate, it is per se unreasonable. People v. Webb, 2023 IL 128957.
2. The exclusionary rule may be invoked when an unlawful search has been committed.  
**a. True.** The exclusionary rule may be invoked by the victim of an unlawful search when the People seek to introduce evidence uncovered by an unlawful search. People v. Hagestedt, 2025 IL 130286.
3. In Illinois, is a drug dog's alert on a vehicle now generally sufficient to establish probable cause to search a suspect vehicle?  
**a. Yes.** A trained drug-detection dog's alert on a vehicle is an acceptable method to establish probable cause. Webb, 2023 IL 128957, ¶ 15, 473 Ill. Dec. 476, 234 N.E.3d 87; People v. Campbell, 67 Ill. 2d 308, 315-16, 10 Ill. Dec. 340, 367 N.E.2d 949 (1977).
4. In this case, the appellate court determined that the People failed to prove that the defendant constructively possessed the firearm discovered inside of his car, and they failed to prove that the defendant had knowledge of the firearm.  
**b. False.** The Court declared that the People proved both that the defendant constructively possessed the firearm and that he had sufficient knowledge that the fire was located inside his car.