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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 02, 2026 1:55 PM
v	No. 377890 Eaton Circuit Court
NICHOLAS ALLEN MADDEN, Defendant-Appellant.	LC No. 25-020133-FH

Before: MARIANI, P.J., and O'BRIEN and WALLACE, JJ.

PER CURIAM.

Defendant appeals from the circuit court's denial of his motion to quash the district court's bindover order, contending he was subject to unconstitutional seizure and investigation when the police subjected him to an investigatory traffic stop on suspicion of drunk driving without a warrant, notwithstanding the officer's concession that he stopped and was seized in the curtilage of his house, and that he was therefore entitled to the suppression of any evidence obtained thereby. We disagree with defendant's assertion because the record demonstrates that the seizure of defendant was initiated on the roadway, not the curtilage of his house. We affirm the trial court's order and remand this case for further proceedings.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

At approximately 1:00 a.m. on August 24, 2024, an on-duty Grand Ledge Police Department patrol officer received a "be on the look out" (BOLO) dispatch for a Tahoe sport utility vehicle (SUV) that a 911 caller (who did not ask to remain anonymous) reported to be "swerving all over the road." The officer testified that she thought the dispatch said the Tahoe was white, "but I don't remember fully." The officer testified that she thought that the BOLO indicated that the Tahoe SUV was observed at the intersection of Wright Road and Grand River Highway, just a few miles north of the city of Grand Ledge, heading southbound. The officer testified that she left the police station in her fully marked patrol vehicle endeavoring to intercept the vehicle, and that within what she thinks was one or two minutes, she encountered a Tahoe stopped at the traffic

light at Bridge Street and Jefferson Street in the city of Grand Ledge.[1] From the officer's dashboard and body camera video, the Tahoe appears to be gray or silver in color. The officer testified that she does not recall seeing any other vehicles on the road matching the description of a Tahoe while responding to the BOLO, that she pulled behind the Tahoe at the traffic light, and that she then followed the vehicle.

According to the testimony of the officer, after the Tahoe proceeded through the traffic light on Bridge Street, she observed it driving more toward the right side of the road where there were empty angled parking spaces, its passenger side tires drove over the end of some of those empty parking space lines, and that, when it signaled and turned left at the next block, those passenger-side tires came close to hitting the curb at the cross walk on the right side of Bridge Street where the sidewalk at the crosswalk juts out into the street, which is at the end of the angled parking spaces. Viewing the patrol car dashboard camera (dashcam) video of these actions on the deserted street, which lasts about six seconds, it does not depict someone "swerving all over the road," but it does show that defendant's vehicle came very close to striking the curb before turning left at the intersection. Following the Tahoe's left turn onto Scott Street, the officer observed the SUV continuing to drive more toward the right side of the road with its passenger side tires touching what the officer described as a relatively new solid white line, which she believed to demarcate a parking lane on the side of this empty, narrow twenty-five-mile-per-hour residential street.

The Tahoe then turned on its left turn signal just before, but almost simultaneous with, the officer turning on her overhead flashers. The officer estimated that the distance from when she observed defendant's driving behavior from the traffic light until she turned on her overhead flashers "was probably a mile or less" and the dashcam video (which commences as the patrol vehicle is passing through the intersection at Bridge Street and Jefferson Street) demonstrates that these events took place over a total of approximately 30 seconds. The Tahoe does not stop when the police cruiser's flashers are illuminated; instead, it brakes, passes two or three residences on the left, and then swings out to the right, crossing over the white parking line, before very slowly turning left into a driveway 9-10 seconds after the flashers were illuminated. The officer follows the Tahoe into and up the driveway with its overhead flashers remaining illuminated, blocking the SUV in the driveway. The Tahoe "pulled all the way to the back of the driveway" and came to a stop with its driver's side door parallel with and approximately ten feet from a set of what looks like four steps up to a side entrance to the residence, well past the house's frontage on the street.

The officer testified that she knew that defendant was pulling into his residence at the time and agreed, based on her legal training, that where he stopped his vehicle was within the curtilage of his home. When asked if not immediately pulling over or being slow to pull over during a traffic stop was potentially indicative of an intoxicated driver, the officer responded that it could

[1] Following Wright Street south from its intersection with Grand River Highway, where the officer testified she believes the BOLO indicated the subject Tahoe SUV was observed, it first turns into Clinton Street and then the main thoroughfare veers off to the southwest as Bridge Street where it crosses the Grand River.

be. The officer acknowledged that this was not the slowest stop she has been a part of and it was initiated after defendant already indicated his intention to pull into his driveway.

According to the officer, she decided to pull over the Tahoe for an investigatory stop on suspicion of drunk driving when she turned on her overhead flashers and that that decision was based on the totality of the circumstances of what she witnessed in following the vehicle to that point, as well the relay of the 911 call from dispatch.[2]

The dashcam shows that defendant then opens the Tahoe's driver's side door and the officer approaches. The audio on the officer's body camera captures her telling him, "Stay in your car, dude," as she approaches. Defendant stays in the vehicle, apparently submitting to this show of police authority. The officer then steps up to the open driver's side door, shining her flashlight into the open cab of the SUV and asks, "Do you have your license, registration, and insurance?" Defendant begins to open his wallet to retrieve his license, but then pauses to look at the officer and listen as she continues to rapidly speak, saying, "We got a call on you saying you were driving all over the road, and I was behind you and you were all over the road," followed by something undiscernible from the body camera video. Defendant then returns his attention to his wallet, removes his license, hands it to the arresting officer without noticeable delay, and turns to look about him to retrieve and provide the other requested items. When the arresting officer asks defendant how much he has had to drink, he responds, "Nothing." The officer then says, "Don't lie. Honesty will get you a lot farther, bud." Defendant then responds, "No it won't. Listen, I know how this game goes." Defendant, in being confronted and questioned by the officer repeatedly protests "I'm at home," and "I'm sitting in my driveway." When he refuses to leave his vehicle to perform field sobriety tests and the officer states that she will get a search warrant for his blood, he responds, "Then get it. Then get the search warrant."

The officer testified that, upon coming in close proximity with defendant sitting in the vehicle with the driver's side door open; she observed that he appeared to have bloodshot and glassy eyes; she could smell the odor of alcohol intoxicants coming from the vehicle; and when she asked for his license, registration, and insurance, he appeared to have slow and delayed movements, all of which she stated could be indicative of an intoxicated driver, in light of her training and experience with such matters. She asked if he would consent to perform standardized field sobriety tests, and repeatedly requested that he exit the vehicle to do so, but he refused to leave the vehicle. The officer, with the assistance of her partner, a second Grand Ledge police officer who arrived on the scene while the foregoing was transpiring, then forcefully removed defendant from the vehicle and placed him under arrest for operating while intoxicated. The original officer on the scene testified that her basis for the arrest included the circumstances that led her to make the investigatory stop, as well as her observations in questioning him in his vehicle in the curtilage of his house. The original officer then sought a search warrant for defendant's blood, which she believes was based on the same evidence that led to her making the arrest. That warrant was obtained and led to defendant having his blood drawn at the hospital.

[2] We note that, later in her testimony, the officer claims that she would have still made the investigatory traffic stop even if she had never received the BOLO call from dispatch.

The arresting officer testified that, in her experience and training with regard to intoxicated drivers, the Tahoe crossing over the parking space lines, almost hitting the curb in turning left, and driving over the solid white line all "could be" indicative of a potentially intoxicated driver.

The blood draw revealed that defendant had a blood alcohol concentration (BAC) over the legal limit and he was subsequently charged with (1) operating while intoxicated, second offense (OWI-2d), MCL 257.625(9)(b), a misdemeanor, and (2) the felony offense of resisting and obstructing a police officer, MCL 750.81d(1), which was based upon defendant refusing the arresting officer's command that he exit his vehicle, and having to be forcefully removed therefrom.

Defendant filed a motion to suppress evidence flowing from an unlawful arrest before the preliminary examination occurred. He argued that police arrested him without sufficient probable cause because: the dashcam video from the arresting officer's motor vehicle did not match the officer's allegations that defendant nearly drove onto the sidewalk during a turn; the officer's body camera footage showed defendant giving the officer his license, registration, and proof of insurance without issue; and the arrest occurred without the evidentiary support of field sobriety tests or a preliminary breath test. Defendant argued that this rendered the arrest invalid and that, because the warrant to draw defendant's blood and test it for alcohol would not have been obtained and executed but for the unconstitutional arrest, the results of the blood test should be suppressed as fruit of the poisonous tree.

At the March 12, 2025 combined hearing on defendant's motion and the preliminary examination, the prosecution argued that the arresting officer had reasonable suspicion supporting a traffic stop because of the BOLO report of a swerving Tahoe and her own observations of defendant's driving. It further argued that the totality of the circumstances, including defendant's intoxicated appearance, odor of alcohol intoxicants, and delayed movements observed during the investigatory stop, established probable cause that defendant was operating while intoxicated. In response, defense counsel argued that the arresting officer violated defendant's Fourth Amendment rights by going onto the curtilage of defendant's property to seize and investigate him without a warrant and that it did not matter whether or not the officer had probable cause to arrest defendant because the hot pursuit of a fleeing felon and ongoing emergency exceptions to the warrant requirement were inapplicable. Defense counsel also noted the body camera video where, upon being told to remain in his vehicle after opening the door to enter his home, defendant stated, "I'm at home, I'm in my driveway," and advised that he would not leave his vehicle and that the officer would need to get a warrant.[3] Defense counsel also argued that the dashcam video did not reflect evidence of erratic, intoxicated driving and was inconsistent with the arresting officer's testimony to that effect, and that defendant had already turned on his turn signal, having decided to turn into his driveway, at the time she activated her patrol vehicle's overhead lights.

The district court took the motion under advisement and later made its oral ruling on April 7, 2025. It noted that the body camera video appeared to show defendant "slow and delayed" in his movements and that his speech sounded somewhat slurred to the court's ear. The district court

[3] A review of this moment in the body camera footage reveals that defendant actually said "I'm home. I got in my driveway."

found that the arresting officer had reasonable suspicion to pull defendant over and follow him into his driveway based on the BOLO dispatch and her observations of his driving. The court found this case to be similar to *People v Rea*, 500 Mich 422; 902 NW2d 362 (2017), a case in which the Michigan Supreme Court, in the context of an arrest of a homeowner for operating a motor vehicle while intoxicated in his private driveway, found that the defendant's conduct occurred "in an area generally accessible to motor vehicles" such that it was within that express language and the purview of MCL 257.625(1).[4] But the court noted that, while the defendant in *Rea* was merely operating the vehicle in his own driveway, here defendant was seen by the officer operating his vehicle on the public roadway. The court further found under the totality of the circumstances, including the officer's observations of defendant as she interacted with him at the open driver's door of his vehicle, that the officer had probable cause to arrest defendant for operating his vehicle while intoxicated. As to the felony charge of resisting and obstructing a police officer, the trial court, relying upon *Pennsylvania v Mimms*, 434 US 106, 111; 98 S Ct 330; 54 L Ed 2d 331 (1977), found that, upon executing an investigatory traffic stop, "a police officer may order the driver to get out of the vehicle without violating the Fourth Amendment." The case was then bound over to the circuit court on the OWI-2d and resisting/obstructing charges.

Defendant filed a motion to quash the district court's bindover decision in the circuit court. Defendant argued that the arresting officer's commands were unlawful because she was on the curtilage of defendant's home without permission and lacked probable cause to order him from the vehicle. He further argued he was lawfully allowed to resist and oppose an unlawful arrest; he was within the curtilage of his home when he was seized and subsequently arrested without a warrant; and no exceptions to the Fourth Amendment's warrant requirement were applicable at the time of that seizure. He also contested the district court's "ruling that there was sufficient probable cause [sic: reasonable suspicion] to make a traffic stop." He requested that the court reverse the lower court's denial of his motion to suppress and quash the bindover.

In response, the prosecution argued that the BOLO dispatch based on the non-anonymous 911 call and the arresting officer's observations of defendant's driving established reasonable suspicion for her to stop defendant and investigate if he was intoxicated. Next, the totality of the circumstances, including the arresting officer's observations following the investigatory stop and defendant's seizure within the curtilage of his home, including his refusal to perform field sobriety tests, established probable cause to support his arrest. Finally, the prosecution argued that it was lawful for the arresting officer to follow defendant's vehicle onto the curtilage of his home and conduct the investigatory stop there, because a finding that this violated the Fourth Amendment and necessitated a warrant "would allow any person to simply continue driving, possibly while intoxicated, until they returned home, then allow the intoxicants in their blood to dissipate while the police sought a search warrant to even talk to them."

[4] However, the *Rea* decision never considers or addresses the Fourth Amendment curtilage issues presented by this case.

At the hearing on the motion to quash the bindover, defense counsel argued that, even supposing reasonable suspicion[5] for the investigatory traffic stop existed, defendant was within the curtilage of his home, where he was entitled to additional constitutional protection; defendant indicated he did not want to leave his vehicle or cooperate with the arresting officer's investigation, and told her to get a search warrant; and there were no exigent circumstances justifying police intrusion. The prosecution agreed that the curtilage was entitled to constitutional protection, but argued that there was an exigency because, if police needed a warrant in defendant's case, defendant would have had time to enter his house and drink alcohol to obscure what his BAC was when he was driving, thereby damaging the reliability of the evidence.

The circuit court subsequently issued a written opinion determining that the district court did not abuse its discretion in binding defendant over for trial on the OWI-2d and resisting/obstructing charges because: the initial stop of defendant was supported by reasonable suspicion, probable cause supported his OWI arrest, and the arresting officer's repeated order for defendant to leave the vehicle was lawful. It further determined that his arrest on the curtilage of his home was lawful because the investigatory traffic stop "began on a public roadway on the strength of a BOLO and the officer's independent observations"; the other observations made by the arresting officer in approaching and investigating defendant in his vehicle in his home's curtilage, including his refusal to perform field sobriety tests, supplied probable cause to arrest for OWI; and the order to exit the vehicle was lawful during a proper investigatory traffic stop pursuant to *Mimms*. The court distinguished defendant's reliance on *Collins v Virginia*, 584 US 586, 592-593; 138 S Ct 1663; 201 L Ed 2d 9 (2018), relying instead upon *Rea*, 500 Mich at 436, *United States v Santana*, 427 US 38; 96 S Ct 2406; 49 L Ed 2d 300 (1976), and *Scher v United States*, 305 US 251; 59 S Ct 174; 83 L Ed 151 (1938). The court distinguished defendant's reliance on decisions limiting warrantless home entries for misdemeanor arrests given that here the police never entered his home. It approved the district court's reliance on *Rea*, 500 Mich at 436, for its holding that because the upper portion of the residential driveway was "generally accessible to motor vehicles," reaching one's driveway does not terminate an otherwise lawful stop.[6] Finally, the court distinguished investigative searches on a home's curtilage from the "continuation of a valid traffic stop and the safety-based *Mimms* directive to exit" the vehicle. It therefore denied defendant's motion to quash the bindover.

Defendant filed a timely application for leave to appeal from the written opinion and order denying his motion to quash bindover. Defendant argued that he was entitled to protection from police investigation on the curtilage of his home, that the investigatory traffic stop pursuant to *Terry v Ohio*[7] was unconstitutional because it was conducted on the curtilage of defendant's home, and that the "hot pursuit" and exigent circumstances exceptions to the warrant requirement were

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[5] As in the motion, defense counsel again erroneously indicated that probable cause is required to effectuate an investigatory traffic stop, rather than reasonable suspicion. *Navarette v California*, 572 US 393, 397; 134 S Ct 1683; 188 L Ed 2d 680 (2014).

[6] That case, again, did not consider or address the Fourth Amendment curtilage issues presented by this case.

[7] *Terry v Ohio*, 392 US 1; 88 S Ct 1868; 20 L Ed 2d 889 (1968).

inapplicable because defendant was suspected of a misdemeanor, not a felony, and presented no apparent significant danger to the public, having parked deep in his driveway and demonstrated his intent to enter his home. This Court granted the application, limited to the issues raised therein. *People v Madden*, unpublished order of the Court of Appeals, entered February 20, 2026 (Docket No. 377890).

II. STANDARD OF REVIEW

A trial court's decision on a motion to quash a bindover order is reviewed for an abuse of discretion. *People v Murawski*, 349 Mich App 296, 302; 27 NW3d 673 (2023). A trial court's decision constitutes an abuse of discretion when it "falls outside the range of reasonable and principled outcomes." *Id*. (quotation marks and citation omitted).

> A circuit court's decision with respect to a motion to quash a bindover order is not entitled to deference because this Court applies the same standard of review to this issue as the circuit court. This Court therefore essentially sits in the same position as the circuit court when determining whether the district court abused its discretion. In other words, this Court reviews the circuit court's decision regarding the motion to quash a bindover only to the extent that it is consistent with the district court's exercise of discretion. The circuit court may only affirm a proper exercise of discretion and reverse an abuse of that discretion. Thus, in simple terms, we review the district court's original exercise of discretion. [*Id*. at 302-303, quoting *People v Hawkins*, 340 Mich App 155, 173; 985 NW2d 853 (2022).]

In other words, "[t]he appellate court reviews 'de novo the bindover decision to determine whether the district court abused its discretion, giving no deference to the circuit court's decision.' " *Murawski*, 349 Mich App at 303, quoting *People v Norwood*, 303 Mich App 466, 468; 843 NW2d 775 (2013).

"Our review of the trial court's application for Fourth Amendment principles, however, is de novo." *People v Hammerlund*, 504 Mich 442, 451; 939 NW2d 129 (2019).

III. ANALYSIS

The Fourth Amendment of the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [US Const, Am IV.]

Article 1, § 11, of Michigan's 1963 Constitution has been "construed to provide the same protection as that secured by the Fourth Amendment, absent compelling reason to impose a different interpretation." *People v Slaughter*, 489 Mich 302, 311; 803 NW2d 171 (2011) (quotation marks and citation omitted).

Reasonableness is the quintessential feature of the Fourth Amendment. *Hammerlund*, 504 Mich at 451. In order for an arrest to be reasonable under the Fourth Amendment, it must be justified by probable cause. *Dunaway v New York*, 442 US 200, 208; 99 S Ct 2248; 60 L Ed 2d 824 (1979). "Probable cause to arrest exists where the facts and circumstances within an officer's knowledge and of which he has reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed." *People v Champion*, 452 Mich 92, 115; 549 NW2d 849 (1996).

> Ordinarily, searches or seizures conducted without a warrant are unreasonable per se, and when evidence has been seized in violation of the constitutional prohibition against unreasonable searches and seizures, it must be excluded from trial. However, several exceptions exist such that a warrant is not always required. [*People v Serges*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 355554); slip op at 6 (quotation marks and citations omitted).]

One long-recognized exception to the warrant requirement is the automobile exception, which is based on the exigency of the automobile's "ready mobility," and individuals' reduced expectation of privacy in automobiles due to their "pervasive regulation." It provides that, "[i]f a car is readily mobile and probable cause exists to believe it contains contraband, the Fourth Amendment . . . permits police to search the vehicle" without the necessity of first obtaining a warrant. *Pennsylvania v Labron*, 518 US 938, 940; 116 S Ct 2485; 135 L Ed 2d 1031 (1996).

A. INVESTIGATORY TRAFFIC STOPS

In addition, "[t]he Fourth Amendment permits brief investigative stops . . . when a law enforcement officer has 'a particularized and objective basis for suspecting the particular person stopped of criminal activity.' " *Navarette v California*, 572 US 393, 396; 134 S Ct 1683; 188 L Ed 2d 680 (2014), quoting *United States v Cortez*, 449 US 411, 417-418; 101 S Ct 690; 66 L Ed 2d 621 (1981). See also *Terry*, 392 US at 21-22. Courts look to "the totality of the circumstances," and, more specifically, "the content of information possessed by police and its degree of reliability" in determining whether the requisite "reasonable suspicion" for such an investigative stop is present. *Navarette*, 572 US at 397 (quotation marks and citations omitted). The reasonable suspicion standard requires "considerably less than proof of wrongdoing by a preponderance of the evidence," let alone probable cause, but a mere hunch does not suffice. *Id*., quoting *United States v Sokolow*, 490 US 1, 7; 109 S Ct 1581; 104 L Ed 2d 1 (1989).

The reasonable suspicion for an investigative stop need not be based solely upon the officer's personal observation. *Id.* "[A]n anonymous tip *alone* seldom demonstrates the informant's basis of knowledge or veracity." *Alabama v White*, 496 US 325, 329; 110 S Ct 2412; 110 L Ed 2d 301 (1990). However, "under appropriate circumstances, an anonymous tip can demonstrate 'sufficient indicia of reliability to provide reasonable suspicion to make [an] investigatory stop.' " *Navarette*, 572 US at 397, quoting *White*, 496 US at 327.

In this case, per the arresting officer's preliminary examination testimony, the 911 call that became the BOLO dispatch that she responded to was non-anonymous and she thought the caller's name was John. The district court found this relevant "because then there's another witness that could be called to testify" (although no such person was called to testify at the preliminary

examination). We find that the nature of the call, that an apparent good Samaritan observed a Tahoe SUV (possibly indicating that it was white) "swerving all over the road" heading southbound at an intersection a few miles north of the city of Grand Ledge, provides a basis of knowledge and indicia of veracity.

The officer pulled in behind the gray or silver Tahoe at a traffic light on a direct route from where the 911 caller observed it driving south within a minute or two of the BOLO dispatch. The officer's dash cam shows no other vehicles driving on the road, let alone another Tahoe. The officer's testimony as to her observations of defendant's driving behavior was mostly consistent with the dashcam video. While the video does not show the Tahoe "swerving all over the road," it does show the SUV driving closer to the right side of the road so that its passenger side tires pass over the ends of several angled parking space lines, the vehicle turning left in a manner where it appears its passenger side tires are very close to the curb of the portion of the sidewalk jutting out at a crosswalk at the end of that streetside parking area, and the passenger-side tires driving on the new white line demarcating a parking lane on the side of an empty, narrow twenty-five-mile-per-hour residential street. Again, the officer turned on her overhead lights just after defendant put on his left turn signal; but, instead of immediately stopping, defendant applied his brakes and then continued past two or three houses before pulling well up into his own driveway, past the frontage of his home, right next to the side door of his residence and in front of his detached garage. Defendant then parked and opened his driver's side door as though to exit the vehicle and enter his house. We note that "the reasonable suspicion needed to support a *Terry* stop is measured as of the time of submission [to the officer's show of authority], not as of the time when the seizure was initiated or first attempted." *United States v Jones*, 562 F3d 768, 775 (CA 6, 2009), citing *United States v McCauley*, 548 F3d 440, 443-446 (CA 6, 2008). Defendant did not exhibit submission to the officer's initial attempt at seizure until the officer told him to remain in the vehicle after he opened the door. Thus, when considering whether the officer had reasonable suspicion to conduct a *Terry* stop, we consider all of the evidence up to the time defendant complied with the command to remain in the vehicle.

Accordingly, considering the totality of the circumstances, including, but not limited to, defendant driving his vehicle multiple times on the white parking line, nearly striking a curb while turning, his refusal to stop his vehicle until about 9 to 10 seconds after the police cruiser's flashers were illuminated, and the BOLO call, the officer had reasonable suspicion that defendant was operating his vehicle while intoxicated, MCL 257.625(1)(a).

B. PARKING IN THE CURTILAGE OF ONE'S HOME

"[W]hen it comes to the Fourth Amendment, the home is first among equals." *Florida v Jardines*, 569 US 1, 6; 133 S Ct 1409; 185 L Ed 2d 495 (2013). "[T]he right of a man to retreat into his own home and there be free from unreasonable government intrusion" stands at the "very core" of the Fourth Amendment. *Lange v California*, 594 US 295, 303; 141 S Ct 2011; 210 L Ed 2d 486 (2021), quoting *Collins*, 584 US at 592.

"[L]aw enforcement must obtain a warrant or identify exigent circumstances that excuse the warrant requirement before entering a home to make an arrest." *Hammerlund*, 504 Mich at 454, citing *Payton v New York*, 445 US 573, 590; 100 S Ct 1371; 63 L Ed 2d 639 (1980)). This is identically the case with regard to entries onto the curtilage, i.e., "the area immediately surrounding

and associated with the home," for it is "part of the home itself for Fourth Amendment purposes." *Collins*, 584 US at 592, quoting *Jardines*, 569 US at 6 (quotation marks and citation omitted). "When a law enforcement officer physically intrudes on the curtilage *to gather evidence*, a search within the meaning of the Fourth Amendment has occurred. Such conduct thus is presumptively unreasonable absent a warrant." *Collins*, 584 US at 592-593 (emphasis added; citation omitted).

As noted, the arresting officer in this case testified that, based upon her training and the vehicle's location in immediate proximity to the side door of the house, defendant stopped his SUV in the curtilage of his home.

In *Collins*, a police officer investigating two traffic incidents involving a motorcycle that was likely stolen walked from the street "alongside the front lawn and up a few yards past the front perimeter of the house" to the "top portion of the driveway" that was "enclosed on two sides by a brick wall about the height of a car and on a third side by the house" and where a side door to the house was present to lift a tarp covering a motorcycle to check its vehicle identification numbers to determine whether it was stolen. *Collins*, 584 US at 589-590, 593. The United States Supreme Court determined that this was an invasion of the curtilage of the defendant's home and that the prosecution's invocation of the automobile exception to the warrant requirement was ineffectual as it does not permit such warrantless entry of a home or its curtilage in order to search a vehicle therein because "the automobile exception extends no further than the automobile itself," rejecting the prosecution's request to find that exception "permit[s] police to invade any space outside an automobile even if the Fourth Amendment protects that space." *Id*. at 594-595. "Just like the front porch, side garden, or area 'outside the front window,' the driveway enclosure where [the officer] searched the motorcycle constitutes 'an area adjacent to the home and to which the activity of home life extends,' and so is properly considered curtilage." *Id*. at 593-594, quoting *Jardines*, 569 US at 6-7 (quotation marks and citations omitted).

> Drawing upon the Court's own cases and the cumulative experience of the lower courts that have grappled with the task of defining the extent of a home's curtilage, we believe that curtilage questions should be resolved with particular reference to four factors: the proximity of the area claimed to be curtilage to the home, whether the area is included within an enclosure surrounding the home, the nature of the uses to which the area is put, and the steps taken by the resident to protect the area from observation by people passing by. We do not suggest that combining these factors produces a finely tuned formula that, when mechanically applied, yields a "correct" answer to all extent-of-curtilage questions. Rather, these factors are useful analytical tools only to the degree that, in any given case, they bear upon the centrally relevant consideration—whether the area in question is so intimately tied to the home itself that it should be placed under the home's "umbrella" of Fourth Amendment protection. [*United States v Dunn*, 480 US 294, 301; 107 S Ct 1134; 94 L Ed 2d 326 (1987) (citations omitted).]

Considering these four *Dunn* factors and that the subsequent *Collins* decision is factually distinguishable from the circumstances of the present case, we find that defendant parked his SUV

in his home's curtilage;[8] however, we also find that the officer communicated to defendant that he was being seized for purposes of a traffic stop on the roadway, i.e., the attempted seizure was initiated on the public roadway, not in the curtilage of defendant's home.

Helpful to our analysis in this case is this Court's recent opinion in *People v Lyons*, ___ Mich App ___; ___ NW3d ___ (2025) (Docket No. 370843). In *Lyons*, the defendant was a rear-seat passenger in a vehicle that, in being pulled over for a nighttime traffic stop, was "slow to stop, pulling into a gas station." *Id*. at ___; slip op at 1. As the vehicle was rolling to a stop, the defendant exited the vehicle, ignored the officer's order to return to and remain in the car, was arrested for ignoring that order, and was found in possession of methamphetamine in the search incident to his arrest. *Id*. at ___; slip op at 1-2. This Court found the initiation of a traffic stop, resulting in the car slowly pulling to a stop, provided the officer with authority to control the movement of passengers during the stop. *Id*. at ___; slip op at 4.

"[A] seizure occurs if in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *Brendlin California*, 551 US 249, 255; 127 S Ct 2400; 168 L Ed 2d 132 (2007) (quotation marks and citation omitted).

In the present case, no reasonable person would believe that they were free to leave at the time the officer turned on her overhead lights. The Michigan vehicle code, MCL 257.1 *et seq.*, explicitly requires that a driver in that situation immediately pull over to the side of the road, unless the driver's vehicle is in an intersection, in which case they are required to pull over immediately after clearing the intersection.

> Upon the immediate approach of an authorized emergency vehicle equipped with not less than 1 lighted flashing, rotating, or oscillating lamp exhibiting a red or blue light visible under normal atmospheric condition from a distance of 500 feet to the front of the vehicle and when the driver is giving audible signal by siren, exhaust whistle, or bell:
>
> (a) The driver of another vehicle shall yield the right of way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of an intersection, and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

[8] In determining that defendant's vehicle was ultimately parked in his home's curtilage, we note that it was parked immediately next to and less than ten feet from the side of defendant's residence well past the front perimeter or frontage of the house. Further, the area where he parked was enclosed on the left by the wall of his home, in front by his garage, and on the right by the wall of the neighbor's house. Additionally, it also readily appears that this was a spot where defendant would regularly park his vehicle to access his home.

> (b) The operator of a streetcar shall immediately stop the car, clear of an intersection, and shall keep it in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. [MCL 257.653(1).]

An officer who observes a person violating the Michigan vehicle code may stop and detain the person. MCL 257.742. As indicated above, this incident occurred late at night and there was no other traffic on the road. As a result, any reasonable person driving the Tahoe at that time would have known they were required to pull over to the side of the road as soon as the flashers were illuminated behind them. At that moment, the officer was exercising her lawful authority to stop defendant, just like the officer in *Lyons*. Instead of complying with the officer, defendant ignored her, pulled into his driveway, and did not stop until he was at the curtilage of his residence. Again, MCL 257.653 is very clear; it does not say that a driver may pull into a driveway when the emergency vehicle approaches with flashing lights, it says they must *immediately* pull to the side of the road and stop.

Despite the fact that this case and *Collins* both involve a seizure that occurred in the curtilage of a residence, this case is distinguishable from *Collins* because the attempted seizure in this matter was initiated on the roadway when the officer illuminated her vehicle's overhead lights, approximately 9 to 10 seconds before he turned into his driveway, as discussed above. The search of the suspected stolen motorcycle in *Collins* occurred days or weeks after that motorcycle was suspected to have been involved in two separate traffic incidents and it occurred solely in the curtilage of the defendant's residence.

Because we find that the trial court did not abuse its discretion, we affirm its order denying defendant's motion to quash the district court's bindover decision and remand this case to the trial court for further proceedings. We do not retain jurisdiction.

/s/ Philip P. Mariani
/s/ Randy J. Wallace