

Landmark V.I. Court Decision Ends Use of Marijuana Smell as Basis for Vehicle Searches

Judge Morris ruled that the Cannabis Use Act legalizing regulated use means odor alone cannot justify probable cause. The decision led to the dismissal of firearms charges against three men after evidence was excluded from trial.

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Police in the U.S. Virgin Islands are no longer allowed to use the odor of marijuana as probable cause for a vehicular search, after a ruling from a V.I. Superior Court judge put a stop to the practice earlier this year.

According to court documents, Judge Ernest Morris Jr. made the ruling while granting a motion to suppress evidence in a case involving firearms charges against three men. Jacob Turnbull,

Thymothy Rodriguez, and Mark Prince were arrested following a March 2024 traffic stop in Christiansted. During the stop, an officer reportedly smelled marijuana from within the vehicle, triggering a search, despite the men's claims that they had no marijuana and did not even consume the drug. Police say they found two handguns in the vehicle the three young men were in, one loaded and equipped with an extended magazine, and one "ghost gun." No cannabis was reportedly found.

Earlier this year, attorneys for the three men filed motions to suppress the evidence seized in the search, arguing that probable cause to justify the warrantless search of the vehicle did not exist. The claim of an odor of marijuana from one officer did not pass the sniff test, the judge found.



V.I. Superior Court Judge Earnest Morris (Credit: VI Judiciary)

According to the affidavit, several officers initially approached the vehicle and stood around it, speaking with the occupants through partially rolled-down windows. When a later-arriving officer reported detecting a strong odor of marijuana, Judge Morris questioned the claim, reasoning that

“it is highly unlikely that none of the other four officers who approached the vehicle before...would have made note of the smell.” The judge further observed that the officer making the claim was a K-9 handler accompanied by his drug-detection dog, yet the dog’s presence and potential response were not mentioned in the police testimony.

Perhaps the most significant factor in the judge’s decision was that, by the time of the November 2024 traffic stop, the Virgin Islands Cannabis Use Act of 2023 was already in effect. The court noted that the act established a legal, regulated framework for cultivating, manufacturing, and using cannabis products for both medicinal and recreational purposes. While marijuana remains prohibited under federal law—where its odor alone can establish probable cause for a vehicle search—Judge Morris found that “the same no longer holds true under Virgin Islands law.” Because cultivation is now legally permitted in the territory, the judge reasoned that “it is not inherent that the marijuana in a person’s possession is illegally acquired or is being illegally used,” further weakening the argument that the smell of marijuana could justify a vehicular search.

As a result, Judge Morris ordered that the evidence taken from the vehicle occupied by the three men on the day in question be suppressed and excluded from the ongoing trial. Without the crucial evidence needed to support their case, prosecutors moved to dismiss the charges against Mr. Turnbull, Mr. Rodriguez, and Mr. Prince with prejudice—a request the judge promptly granted.