

The opinion summaries are not part of the Colorado Supreme Court's opinion. They have been prepared solely for the reader's convenience. As such, they may not be cited or relied upon. If there is any discrepancy between the language in the summary and the opinion, the language in the opinion controls.

ADVANCE SHEET HEADNOTE  
June 30, 2025

2025 CO 47

**No. 24SA148, *People v. Mills* – Seizure – Search – Search Warrant – Reasonable Delay – Suppression of Evidence – CAR 4.1.**

The supreme court reviews the trial court's order suppressing drug evidence found in a vehicle on grounds that the seizure of the vehicle was unconstitutionally extended when police waited three days to apply for a warrant to search the vehicle.

To determine whether a seizure of property based on probable cause was reasonably extended to apply for a warrant to search that property, the court establishes a four-factor balancing test that considers (1) the length of the delay, (2) the nature and strength of the individual's possessory interest in the property seized, (3) the strength of the government's justification for the delay, and (4) the government's diligence in applying for a search warrant.

Applying that balancing test here, the court concludes that the delay between the initial seizure and the search of the vehicle was reasonable. The court thus reverses the trial court's suppression order.

**The Supreme Court of the State of Colorado**  
2 East 14th Avenue • Denver, Colorado 80203

---

---

**2025 CO 47**

---

---

**Supreme Court Case No. 24SA148**

*Interlocutory Appeal from the District Court*

District Court, City and County of Denver, Case Nos. 23CR4306 & 21CR6486

Honorable Adam J. Espinosa, Judge

---

**Plaintiff-Appellant:**

The People of the State of Colorado,

v.

**Defendant-Appellee:**

Arthur S. Mills.

---

**Order Reversed**

*en banc*

June 30, 2025

---

**Attorneys for Plaintiff-Appellant:**

Beth McCann, District Attorney, Second Judicial District

Ellen Michaels, Deputy District Attorney

*Denver, Colorado*

**Attorneys for Defendant-Appellee:**

Megan A. Ring, Public Defender

Christopher Smallwood, Deputy Public Defender

*Denver, Colorado*

**CHIEF JUSTICE MÁRQUEZ** delivered the Opinion of the Court, in which **JUSTICE BOATRIGHT, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE HART, JUSTICE SAMOUR,** and **JUSTICE BERKENKOTTER** joined.

CHIEF JUSTICE MÁRQUEZ delivered the Opinion of the Court.

¶1 In this interlocutory appeal under section 16-12-102(2), C.R.S. (2024) and C.A.R. 4.1, the People seek review of the trial court's order suppressing drug evidence found in Defendant Arthur S. Mills's vehicle. The trial court reasoned that because the Denver Police Department ("Denver Police") did not apply for a warrant to search Mills's vehicle until three days after seizing it, the delay rendered the seizure unconstitutional.

¶2 In general, we assess the reasonableness of a seizure by weighing the nature and quality of the intrusion on an individual's Fourth Amendment interests against the importance of the government's law enforcement interests asserted to justify the intrusion. That overarching balance of interests applies in this context as well. To determine whether a seizure of property based on probable cause was reasonably extended to apply for a warrant to search that property, we establish a four-factor balancing test that considers (1) the length of the delay, (2) the nature and strength of the individual's possessory interest in the property seized, (3) the strength of the government's justification for the delay, and (4) the government's diligence in applying for a search warrant.

¶3 Applying that balancing test here, we conclude that the delay between the initial seizure and the search of Mills's vehicle was reasonable. We therefore

reverse the trial court's suppression order, and we remand for further proceedings consistent with this opinion.

### **I. Facts and Procedural History**

¶4 On a Saturday afternoon during a covert surveillance operation in a high crime area of Denver, undercover police officers observed Mills drive into a Walgreens parking lot. Officer Derek Streeter witnessed a man enter Mills's vehicle, Mills grab a backpack from the back seat, and the two men huddle over the center console — behaviors that the officer believed were consistent with a drug transaction. The other man left Mills's vehicle. Neither went into the Walgreens. While Mills was still in the parking lot, Officer Streeter learned that Mills had a substantial history of narcotics distribution. When Mills drove out of the parking lot without using proper turn signals, Officer Streeter notified fellow officers to make a traffic stop.

¶5 During the traffic stop, Mills failed to produce a driver's license or proof of insurance for the Range Rover he was driving; instead, he provided insurance for three other high-end vehicles. He also used three different cell phones during the stop.

¶6 Mills refused to get out of the car and became contentious and uncooperative. Although the officers believed they had probable cause to arrest him, they did not want to break into the vehicle and physically remove him. The

officers decided to consult Detective Kevin Burke, one of four narcotics detectives, all of whom were off duty. Detective Burke instructed the officers to secure the vehicle, hold it for him, and obtain a search warrant instead of conducting a search on-scene. Burke also informed the officers that he would take the investigation from there. The officers issued Mills a citation for driving without a valid driver's license and insurance. They permitted him to have an acquaintance come to the scene to move the vehicle a short distance to park it legally. Mills and the acquaintance left the car, and the officers impounded the vehicle.

¶7 Detective Burke did not take any action to apply for a warrant to search the vehicle later that evening or Sunday, while he remained off duty. Upon his return to work on Monday, he requested a K-9 sniff of the vehicle. The K-9 detective informed Detective Burke that the unit was off duty on Mondays and asked if the sniff could be performed on Tuesday. Detective Burke assented, believing that because the police had seven days to execute a search warrant, they could hold the vehicle for up to a week. He spent Monday familiarizing himself with the case, drafting the search warrant, and attending to other cases.

¶8 On Tuesday, Detective Burke contacted the K-9 unit again. The K-9 unit performed the dog sniff that morning, and the dog alerted to the presence of drugs inside the vehicle. Detective Burke completed the search warrant application and

affidavit and submitted them late that afternoon. Just over an hour later, a judge signed the warrant.

¶9 Over the following few days, Denver Police tried unsuccessfully to obtain Mills's cooperation to search his vehicle without forcing entry. Detective Burke eventually entered the vehicle through a side window and found a backpack in the car containing methamphetamine, heroin, cocaine, fentanyl, and two digital scales with white residue. The People charged Mills with four counts of possession with intent to distribute a controlled substance under section 18-18-405, C.R.S. (2024).<sup>1</sup>

¶10 Mills later filed a motion to suppress the evidence gathered from his vehicle. As relevant here, Mills argued that the officers lacked probable cause to seize the vehicle and even if the initial seizure was valid, Denver Police unlawfully extended the seizure in violation of the Fourth Amendment to the U.S. Constitution and article II, section 7 of the Colorado Constitution because Detective Burke waited until the following Tuesday to apply for a warrant. The People responded that the officers had probable cause to seize the vehicle and the delay in seeking the warrant was reasonable under the totality of the circumstances.

---

<sup>1</sup> This case was joined with two other pending drug distribution cases against Mills, and the trial court consolidated them into case number 23CR4306.

¶11 Following a hearing, the Denver County District Court granted Mills’s motion. In an oral ruling, the trial court concluded that although Denver Police had probable cause to seize Mills’s vehicle, they extended the seizure for a period that was longer than necessary to apply for a search warrant. Citing *Chambers v. Maroney*, 399 U.S. 42 (1970), the trial court reasoned that the reasonableness of any delay in this context is grounded in necessity; that is, “the car or item that is being seized to obtain a warrant can be held for whatever period is necessary to obtain the warrant.” Applying this standard, the court concluded that the seizure of Mills’s vehicle was unreasonable because the court was “unconvinced . . . that the car was held for only the period of time necessary to obtain the warrant.” After expressing concern that the off-duty detective did not seek a warrant over the weekend, the court ultimately concluded that the car was seized for longer than necessary because the warrant could have been obtained on Monday, when Detective Burke got back to work.<sup>2</sup> The court therefore suppressed the evidence of narcotics found in the vehicle.

¶12 The People filed a motion to reconsider, which the trial court denied. The People then filed this interlocutory appeal under C.A.R. 4.1, seeking relief from the trial court’s ruling.

---

<sup>2</sup> The court also ruled that the good faith exception to the exclusionary rule did not apply.



¶13 Because we agree with the People that law enforcement’s three-day delay in applying for the search warrant was reasonable under the circumstances of this case, we reverse the trial court’s suppression order.

## **II. Standard of Review**

¶14 A trial court’s suppression order presents a mixed question of law and fact. *People v. McIntyre*, 2014 CO 39, ¶ 13, 325 P.3d 583, 586–87. We defer to the trial court’s findings of historical fact when competent evidence in the record supports them. *People v. Davis*, 2019 CO 84, ¶ 18, 449 P.3d 732, 738. However, we review the legal effect of those facts de novo. *People v. Deaner*, 2022 CO 43, ¶ 10, 517 P.3d 66, 69.

## **III. Analysis**

¶15 First, we establish that when the police delay seeking a warrant to search property they have seized with probable cause, the constitutionality of the extended seizure turns on the reasonableness of the delay. Next, we set forth a balancing test for determining whether law enforcement’s delay in seeking a warrant in such circumstances is reasonable. Finally, we apply the new test to the facts before us.

## **A. Reasonableness Is the Touchstone for Assessing the Constitutionality of a Seizure**

¶16 Because the Fourth Amendment prohibits “unreasonable searches and seizures,” U.S. Const. amend. IV,<sup>3</sup> whether the seizure here was unconstitutional turns on whether it was reasonable. Indeed, the Supreme Court and this court have consistently interpreted questions involving the Fourth Amendment through the lens of reasonableness. *People v. Thompson*, 2021 CO 15, ¶ 20, 500 P.3d 1075, 1079 (“[T]he ultimate touchstone of the Fourth Amendment is reasonableness.” (citing *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006))).

¶17 In general, seizures of personal property are unreasonable unless accomplished pursuant to a warrant based on probable cause. *Illinois v. McArthur*,

---

<sup>3</sup> As noted above, Mills contends that the seizure of his vehicle violated both the Fourth Amendment to the U.S. Constitution and article II, section 7 of the Colorado Constitution. However, because “[t]he Colorado and U.S. Constitutions are generally coextensive with regard to warrantless searches and seizures,” we discuss only the Fourth Amendment in this opinion. *Eddie’s Leaf Spring Shop & Towing LLC v. Colo. Pub. Utils. Comm’n*, 218 P.3d 326, 333 (Colo. 2009) (citing *People v. Rodriguez*, 945 P.2d 1351, 1358–59 (Colo. 1997)). Mills offers no reason to treat article II, section 7 differently in this context. *People v. Taylor*, 41 P.3d 681, 686 (Colo. 2002) (“The essential purpose of the proscriptions in the Fourth Amendment is to impose a standard of reasonableness upon the exercise of discretion by government officials including law enforcement agents, in order to safeguard the privacy and security of individuals against arbitrary invasions.”) (quoting *Delaware v. Prouse*, 440 U.S. 648, 653–54 (1979)); cf. *People v. McKnight*, 2019 CO 36, ¶¶ 41–42, 446 P.3d 397, 407–08 (reasoning that the legalization of marijuana under article XVIII, section 16 of the Colorado Constitution “expanded the protections of article II, section 7 to provide a reasonable expectation of privacy to engage in the lawful activity of possessing marijuana in Colorado”).

531 U.S. 326, 330 (2001). However, if the police have probable cause to believe that a person's property contains contraband or evidence of a crime and it is necessary to seize or secure the property immediately to prevent its destruction or disappearance, the Fourth Amendment allows them to seize the property without a warrant—so long as they follow up by applying for a warrant to search the property. *United States v. Place*, 462 U.S. 696, 701 (1983); *United States v. Smith*, 967 F.3d 198, 205 (2d Cir. 2020).

¶18 Law enforcement may not seize and hold property indefinitely without seeking a warrant to search that property. In other words, when officers seize property for a search but “fail to seek a search warrant, at some point the delay becomes unreasonable” and runs afoul of the Fourth Amendment. *United States v. Burgard*, 675 F.3d 1029, 1032 (7th Cir. 2012) (citing *Moya v. United States*, 761 F.2d 322, 325 n.1 (7th Cir. 1984)); see also *Segura v. United States*, 468 U.S. 796, 812 (1984) (“[A] seizure reasonable at its inception because [it was] based upon probable cause may become unreasonable as a result of its duration or for other reasons.”). The question thus becomes whether a delay by the police in seeking the warrant renders a seizure unconstitutional.

¶19 Mills relies on *Chambers* to argue that the proper standard of reasonableness is necessity; that is, that a vehicle may be seized and held without a warrant only for “whatever period is necessary to obtain a warrant for the search.” 399 U.S. at

51. But *Chambers* did not actually apply a necessity standard. There, the police stopped a station wagon that matched the description of a vehicle involved in a robbery an hour earlier. *Id.* at 44. Because one of the station wagon's occupants also matched the description of a suspect in the robbery, the police arrested the occupants, drove the vehicle to the police station, and searched it *without* a warrant. *Id.* The Court upheld the warrantless search of the vehicle at the police station, reasoning that there was probable cause to search the vehicle when it was initially stopped and that an immediate search of a car is constitutionally permissible because a vehicle is movable and is thus a "fleeting target" for a search. *Id.* at 51-52. The Court observed that, "we see no [constitutional] difference between . . . seizing and holding a car before presenting the probable cause issue to a magistrate and . . . carrying out an immediate search without a warrant." *Id.* at 52. It concluded that either course was reasonable under the Fourth Amendment. *Id.* In sum, although *Chambers* mentioned that property may be "held without a warrant for whatever period is necessary to obtain a warrant for [a] search," *id.* at 51, the police chose to conduct a warrantless search in that case, *id.* at 44. In other words, *Chambers* did not analyze a situation in which the police seized a vehicle and then held it to seek a warrant. *Chambers* therefore cannot be read to establish a rule limiting police to holding a seized vehicle for "only whatever period is necessary" to obtain a warrant.

¶20 More recently in *McArthur*, the Court upheld as lawful police officers' actions in restricting a resident from re-entering his trailer for two hours while they sought a search warrant for marijuana. 531 U.S. at 332. In assessing the reasonableness of the officers' actions, the Court noted that the restraint was imposed for a limited period that was "no longer than reasonably necessary for the police, acting with diligence, to obtain the warrant." *Id.* In so doing, however, the Court did not purport to establish a necessity standard; indeed, it later remarked that it had never "held unlawful a temporary seizure that was supported by probable cause and was designed to prevent the loss of evidence while the police *diligently obtained a warrant in a reasonable period.*" *Id.* at 334 (emphasis added).

¶21 Having confirmed that the touchstone for the Fourth Amendment analysis in this context remains reasonableness, we now turn to the appropriate factors to determine whether a delay in applying for a search warrant renders an earlier seizure based on probable cause unreasonable.

### **B. Courts Should Apply a Balancing Test to Determine the Reasonableness of a Delay in Seeking a Warrant**

¶22 Courts generally assess the reasonableness of a seizure by balancing "the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion." *Place*, 462 U.S. at 703; *see also McArthur*, 531 U.S. at 331 ("[W]e balance

the privacy-related and law enforcement-related concerns to determine if the intrusion was reasonable.”). In assessing the reasonableness of a seizure that is extended to apply for a search warrant, federal courts have weighed the individual’s Fourth Amendment interests by evaluating the length of the seizure and the nature and strength of the individual’s possessory interest. In *Smith*, for example, the Second Circuit instructed courts to consider the length of the delay in seeking a search warrant, the nature of the seized property and its importance to the defendant, and whether the defendant’s property interest had been reduced by consenting to the seizure or voluntarily relinquishing control of the property to a third party. 967 F.3d 198, 206–08 (2d Cir. 2020). Similarly, in *Burgard*, the Seventh Circuit noted that the length of the seizure is a factor, observing that the longer the police take to seek a warrant, the greater the infringement on the person’s possessory interest. 675 F.3d 1029, 1033 (7th Cir. 2012). Importantly, the court in *Burgard* emphasized that “[o]n the individual person’s side of this balance, the critical question relates to any possessory interest in the seized object, not to privacy or liberty interests.” *Id.*

¶23 On the government’s side of the balance, federal courts have evaluated the strength of the government’s justification for the delay and its diligence in applying for a warrant. In *Smith*, the court observed that the fact that an officer has a heavy caseload or is responsible for a large geographical district does not,

without more, justify waiting an unlimited amount of time to apply for a warrant; rather, the “Fourth Amendment imposes a time-sensitive duty to diligently apply for a search warrant if an item has been seized for that very purpose, and all the more so if the item has been warrantlessly seized.” 967 F.3d at 210. In *Burgard*, the court observed that the officer’s delay was not the result of an abdication of his work or the failure to see any urgency in the matter, but rather because the officer wanted to “be sure that he had all the information he needed from the seizing officer” and to consult with the prosecuting attorney, while attending to his other duties. 675 F.3d at 1034. The court noted that “[w]e do not want to discourage this sort of careful, attentive police work, even if it appears to us that it could or should have moved more quickly,” because “[e]ncouraging slapdash work could lead to a variety of other problems.” *Id.*

¶24 Drawing from these cases, we adopt a four-factor balancing test that weighs the totality of the circumstances, focusing on (1) the length of the delay, (2) the nature and strength of an individual’s possessory interest in the property seized, (3) the strength of the government’s justification for the delay, and (4) the government’s diligence in applying for a search warrant.

¶25 The first factor, the length of the delay, is a context-dependent review of the length of the delay between the initial seizure and the search warrant application. *See Smith*, 967 F.3d at 206–07. Although there is “no bright line past which a delay

becomes unreasonable,” the longer the police take to seek a warrant, generally the greater the infringement on the individual’s possessory interest in the seized property. *Burgard*, 675 F.3d at 1033. If the police have probable cause to seize an individual’s property in the first place, they usually should be able to promptly articulate that probable cause in an application for a warrant. *Smith*, 967 F.3d at 207.

¶26 The second factor, the nature and strength of the individual’s possessory interest, contains two prongs. Courts should begin by evaluating the nature of the item seized. For example, a personal electronic device such as a smartphone or laptop is likely used by the individual for communication or the storage of immense amounts of personal data (much of which may be wholly unrelated to the investigation for which the item was seized); such items may carry a stronger possessory interest than a backpack or suitcase containing less sensitive personal information. *Id.* at 208; *see also United States v. Laist*, 702 F.3d 608, 614 (11th Cir. 2012) (citing *United States v. Mitchell*, 565 F.3d 1347, 1353 (11th Cir. 2009)). Relatedly, courts should evaluate the strength of the individual’s possessory interest. For example, courts may take into account whether the individual’s interest may have been diminished by entrusting the item to a third party, *see United States v. Martin*, 157 F.3d 46, 54 (2d Cir. 1998) (concluding that a delay after a “seizure is necessarily less intrusive where ‘the owner has relinquished control



of the property to a third party’” such as the United States Parcel Service (quoting *Place*, 462 U.S. at 705 and n.6)), or reasserted by checking on the status of the seizure or seeking the return of the item, *Burgard*, 675 F.3d at 1033. Thus, the second factor considers the degree to which the extended seizure interrupted the individual’s life. *Laist*, 702 F.3d at 613 (stating that one factor in a court’s review of the reasonableness of an extended seizure is “the significance of the interference with the person’s possessory interest” (citing *Mitchell*, 565 F.3d at 1351)).

¶27 The third factor, the strength of the government’s justification for the delay, objectively examines the reasonableness of the delay given the resources available to the government and the complexity of the case. *Burgard*, 675 F.3d at 1033 (noting that when the police lack “any good explanation” for a delay in seeking a warrant, “it appears that the state is indifferent to searching the item and the intrusion on an individual’s possessory interest is less likely to be justifiable”); *Smith*, 967 F.3d at 210 (observing that the record in that case did not reflect any particular investigation or duty that delayed the officer in applying for a search warrant); *United States v. Christie*, 717 F.3d 1156, 1163 (10th Cir. 2013) (noting that the agent who seized the defendant’s property was called upon to help with indisputably higher priority undercover operations in other cases).

¶28 The fourth factor examines the government’s diligence in applying for a search warrant. *Smith*, 967 F.3d at 202 (observing that when the police

“temporarily seize a suspect’s personal property” with probable cause and the intent “to apply for a warrant to search the property for evidence of a crime. . . . , the Fourth Amendment requires that they act with diligence to apply for a search warrant”). Consideration of the government’s diligence safeguards against unreasonably long seizures by imposing a “time-sensitive duty” to apply for a search warrant. *Id.* at 210. At the same time, evaluation of the government’s diligence allows for appropriately “careful, attentive police work.” *Burgard*, 675 F.3d at 1034.

¶29 We emphasize that this balancing test is fact-intensive, context-specific, and dependent on the totality of the circumstances. *Christie*, 717 F.3d at 1162 (“What reasonably justifies a brief delay . . . may not reasonably justify a longer one.”). Because the standard is reasonableness, not necessity, the government is not required to apply for a search warrant at the earliest possible time or “pursue[] the least intrusive course of action.” *United States v. Sullivan*, 797 F.3d 623, 633 (9th Cir. 2015) (quoting *United States v. Hernandez*, 313 F.3d 1206, 1213 (9th. Cir. 2002)); see also *Burgard*, 675 F.3d at 1034 (noting that “police imperfection is not enough to warrant reversal” because “[w]ith the benefit of hindsight, courts ‘can almost always imagine some alternative means by which the objectives of the police might have been accomplished,’ but that does not necessarily mean that the police

conduct was unreasonable” (quoting *United States v. Sharpe*, 470 U.S. 675, 686–87 (1985))).

¶30 Having adopted this balancing test, we now apply it to the facts before us.

### **C. Application**

¶31 Weighing the factors we have identified, we conclude that the delay in this case to apply for a search warrant was reasonable. Accordingly, the extended seizure did not violate the Fourth Amendment.

¶32 First, the three-day delay in this case was relatively brief (ultimately less than seventy-two hours). This is especially true considering that much of this time fell over a weekend while the lead investigating officer was off duty. *Martin*, 157 F.3d at 54 (noting that an eleven-day delay that included two weekends and a holiday “could explain the difficulty in promptly obtaining the [search] warrant”).

¶33 Second, we examine the strength and nature of Mills’s possessory interest in the seized vehicle. Although a vehicle can be used to store personal possessions and is obviously an important (and sometimes exclusive) means of transportation, in this case, the record indicates that Mills had little to no ability to lawfully use the vehicle because he failed to produce a valid driver’s license or proof of insurance for the vehicle. Furthermore, nothing in the record suggests that the vehicle was Mills’s essential means of transportation—he appeared to have three

other vehicles at his disposal.<sup>4</sup> The record is also inconclusive regarding whether Mills's attorney requested that Denver Police return Mills's vehicle in a message left for Detective Burke on the night when the police seized the vehicle.

¶34 Third, we examine the strength of Denver Police's justification for the delay. Even though the police believed they had probable cause to seize and search the vehicle for evidence of drug-related crimes, Mills's conduct raised concerns for officer safety that prompted a more cautious approach. The record also reflects that the on-scene officers believed that a K-9 sniff could not be performed while the vehicle was occupied, and Mills was refusing to get out of it. Moreover, there were no K-9 units on duty or nearby at the time the vehicle was pulled over. After Denver Police seized the vehicle, Detective Burke determined that waiting for a K-9 sniff would be an appropriate measure to take before seeking a search warrant. Although a court may well have issued a search warrant without the results of a dog sniff, we do not fault Denver Police for their thoroughness in arranging for and conducting the K-9 sniff before applying for the search warrant. We do not wish to discourage the kind of careful, attentive police work that ultimately serves to protect defendants' Fourth Amendment interests. *See Burgard*, 675 F.3d at 1034.

---

<sup>4</sup> We reject the People's argument that Mills's possessory interest in his vehicle was weakened because it was subject to civil forfeiture. The vehicle was not subject to civil forfeiture during the initial seizure or subsequent search.

¶35 Fourth and finally, we evaluate Denver Police’s diligence in applying for the warrant. To be sure, Detective Burke’s mistaken belief that the police could hold the vehicle for a week because they had seven days to execute a warrant did not justify a delay. That said, he requested a K-9 sniff shortly after he got back to work on Monday and continued working on the search warrant application while he waited for the K-9 unit to become available. *Cf. Mitchell*, 565 F.3d at 1352–53 (holding that a delay in obtaining a warrant was not justified but acknowledging that some delay to seek assistance of another officer may be reasonable). The K-9 unit performed a search the next day, and the detective submitted a search warrant and affidavit that afternoon. That Detective Burke could have submitted an application for a search warrant on Saturday, Sunday, or Monday does not make his efforts any less diligent. *Burgard*, 675 F.3d at 1034 (noting that even when a police officer may have been able to work more quickly, an officer delaying to “be sure that he had all the information he needed from the seizing officer . . . while attending to his other law enforcement duties” does not “necessarily mean that the police conduct was unreasonable”). In the end, Detective Burke submitted the search warrant application on the same day that he finished gathering all material facts regarding probable cause that he included in the application. *Cf. Smith*, 967 F.3d at 207 (finding that this factor weighed substantiality in favor of the defendant where every fact set forth in the search warrant application that was

material to probable cause was known to the police on the same day the police seized the property in question).

¶36 Weighing these four factors, we conclude that the three-day delay here did not render the seizure unreasonable. Although Tuesday was not the earliest *possible* time the warrant application could have submitted, it was still submitted within a *reasonable* time. Thus, the trial court erred in suppressing the evidence of the narcotics found inside the vehicle based on the delay.<sup>5</sup>

#### **IV. Conclusion**

¶37 Weighing the length of the delay, the nature and strength of Mills's possessory interest in the vehicle seized, the strength of Denver Police's justification for the delay, and Denver Police's diligence in applying for a search warrant, we conclude that the delay between the initial seizure of Mills's vehicle and the search warrant application was reasonable. Thus, the extended seizure was not unconstitutional. We reverse the trial court's suppression order and remand the case for further proceedings consistent with this opinion.

---

<sup>5</sup> Because we conclude the delay was reasonable, we need not address the good faith exception to the exclusionary rule.