

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
TIMOTHY OLIVER BARR II,	:	
	:	
Appellant	:	No. 2347 EDA 2019

Appeal from the Order Entered August 2, 2019
in the Court of Common Pleas of Lehigh County
Criminal Division at No(s): CP-39-CR-0000279-2019

BEFORE: BENDER P.J.E., LAZARUS, J. and STRASSBURGER, J.*

CONCURRING OPINION BY STRASSBURGER, J.: **FILED SEPTEMBER 25, 2020**

I join the Majority in its entirety, and agree “the odor of marijuana does not *per se* establish probable cause to conduct a warrantless search of a vehicle[,]” thus requiring remand of this matter for the trial court to consider that factor, along with any other factors, in its probable cause analysis.

I write separately to note my discontent with the Commonwealth’s reliance on the “high-crime area” factor in support of a finding of probable cause. I believe that the status of the neighborhood at issue as a “high-crime area” should not be relevant to the probable cause determination. People who live in poor areas that are riddled with crime do not have fewer constitutional rights than people who have the means to live in “nice” neighborhoods.

* Retired Senior Judge assigned to the Superior Court.

President Judge Emeritus Bender and Judge Lazarus join in this concurring opinion.