

[J-18-2026] [MO: Mundy, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 6 WAP 2025
	:	
Appellee	:	Appeal from the Order of the
	:	Superior Court entered November
	:	20, 2024, at No. 931 WDA 2023,
v.	:	Affirming the Order of the Court of
	:	Common Pleas of Allegheny
	:	County entered June 1, 2023, at
CLIFFORD E. WILSON,	:	No. CP-02-CR-009579-2021.
	:	
Appellant	:	ARGUED: April 14, 2026

CONCURRING OPINION

JUSTICE WECHT

DECIDED: AUGUST 18, 2026

The Drug Overdose Response Immunity Act (“DORIA”)¹ immunizes from prosecution for certain minor offenses those who report a drug overdose and who remain with the person experiencing that overdose.² In such circumstances, DORIA derivatively immunizes the person experiencing the overdose, as well.³ By conferring these immunities, DORIA reflects the General Assembly’s intent to incentivize overdose

¹ Act of April 14, 1972, P.L. 233, No. 64, *added by* Act of Sept. 30, 2014, P.L. 2487, No. 139, *codified at* 35 P.S. § 780-113.7.

² 35 P.S. § 780-113.7(a)(2). DORIA also immunizes those who transport a person experiencing “a drug overdose event” to a law enforcement agency or a health care facility. *Id.* § 780-113.7(a)(1).

³ *Id.* § 780-113.7(c).

reporting and to prioritize emergency response to a public health crisis (and individual medical emergencies) over criminal prosecution for some drug offenses.⁴

It is not at all clear that DORIA confers immunity upon overdosing individuals whose overdoses are discovered and reported by emergency services personnel rather than by persons involved in the drug-related activity. Indeed, the opposite reading is more plausible. DORIA applies to circumstances in which an emergency responder, such as paramedic Wiest, *receives* an overdose report, rather than circumstances such as those presented here, where the emergency responder *makes* the report. It would be absurd to apply this statute in a way that pretends that paramedic Wiest and other responders similarly situated were ever exposed to prosecution for Wilson's overdose in the first place.

Consider the fact that DORIA does not expressly include emergency personnel within those who "shall be immune from prosecution for any offense listed."⁵ Rather, DORIA refers to "emergency services personnel" among those to whom the overdose may be reported.⁶ As a matter of statutory interpretation, then, DORIA does not even apply here. Paramedic Wiest, who reported Wilson's overdose and who administered Narcan to him, is "emergency services personnel," notwithstanding that he was off-duty at the time. Paramedics, like other emergency responders, are the *end* of the chain that

⁴ See *Commonwealth v. Markun*, 185 A.3d 1026, 1035 (Pa. Super. 2018) ("We find that the Legislature sought to encourage persons, who may be fellow drug users themselves, to report overdoses by guaranteeing that criminal punishments will not normally follow.").

⁵ 35 P.S. § 780-113.7(a).

⁶ *Id.* § 780-113.7(a)(2)(i) ("the person reported, in good faith, a drug overdose event to a law enforcement officer, the 911 system, a campus security officer, *or emergency services personnel*"); see also *id.* § 780-113.7(f) (defining "emergency services personnel" to include "individuals . . . whose official or assigned responsibilities include performing or directly supporting the performance of emergency medical and rescue services").

connects the person who summons help with the person who has overdosed. Once that link is made, both the person who summons help and the person who receives that help are eligible for immunity for their drug offenses. “Emergency services personnel,” like Wiest, neither have nor require immunity from prosecution. Paramedic Wiest was never going to be prosecuted in this situation, and it is nonsensical to hypothesize otherwise. Because DORIA does not apply to Wiest, it does not appear that the General Assembly intended to bestow derivative immunity on someone like Wilson.

This interpretation of DORIA is reinforced by Pennsylvania’s “Good Samaritan Act.”⁷ That Act, unlike DORIA, *expressly* immunizes emergency responders. Its title, “Emergency response provider and bystander good Samaritan civil immunity,” promises as much, and distinguishes “emergency response providers” from mere “bystanders.”⁸ It protects paramedics from civil suit for actions undertaken for the purpose of rendering aid to others.⁹ Of relevance here, what the Good Samaritan Act makes clear, first, is that the General Assembly knows how to distinguish emergency medical personnel from bystanders and, second, that it has specified when it intended a form of immunity to extend to such personnel. Viewed in this light, DORIA’s failure expressly to extend its criminal immunity to first responders (such as paramedic Wiest) implies that the General Assembly intended to exclude them from the statute’s reach. And for good reason.

⁷ 42 Pa.C.S. § 8332.

⁸ *Id.*

⁹ See *id.* § 8332(a) (“Any person, including an emergency response provider, whether or not trained to practice medicine, who in good faith renders emergency care, treatment, first aid or rescue at the scene of an emergency event or crime or who moves the person receiving such care, first aid or rescue to a hospital or other place of medical care shall not be liable for any civil damages as a result of rendering such care”); see *id.* § 8332(e) (defining an “emergency response provider,” *inter alia*, as “[s]tate and local . . . emergency medical services personnel”).

Police, paramedics, and other first responders are *rendering* the emergency aid that the DORIA-immunized person *and* his derivatively immunized companion require.

For the foregoing reasons, the intended meaning of the exception for discovery of contraband “independent of” the overdose report¹⁰ upon which the parties focus, and relative to which the Majority and the Dissent would resolve the case (albeit divergently), is beside the point. If DORIA’s threshold is not crossed, then the application or non-application of a statutory exception is immaterial.¹¹

That being said, on the question of independence relative to the facts and circumstances of this case, I nonetheless find myself in a concurring posture because the inventory search in this case was conducted independently of the overdose report. I share Justice Donohue’s skepticism of the Majority’s reliance upon out-of-state case law and concepts derived from the law of search and seizure. I share as well Justice Donohue’s view that the language of the statute is plain, and that it applies only where discovery was not *contingent upon* the overdose report. But in my view, under these circumstances, discovery was not contingent upon the report.

It cannot be disregarded that Officer Carb arrived on the scene in response to Wiest’s report, and in that sense his presence there was not “independent.” But to infer from that circumstance the conclusion that the inventory search itself was not independent of that report is contrary to the evidence. The record makes clear that Wilson’s vehicle had fetched up against a construction fence adjoining a business on

¹⁰ 35 P.S. § 780-113.7(d)(1).

¹¹ The parties limit themselves to arguing the application of the “independent of” exception. However, this Court may affirm a lower court’s ruling on any basis. See, e.g., *Commonwealth v. Shaffer*, 209 A.3d 957, 959 (Pa. 2019).

Sharpsburg's Main Street in broad daylight.¹² As well, Wilson was unconscious until Wiest administered Narcan, after Officer Carb arrived. It cannot credibly be disputed that the vehicle was destined for impound, given the vehicle's compromised, illegal position along a busy road. Due to Wilson's obvious incapacity before—and continued intoxication after—the administration of Narcan, he wasn't driving anywhere. This left open only the option of a tow to impound, due to the vehicle's position, which necessarily was attended by the inventory search conducted in this case.¹³

It may require the application of common sense to circumstantial evidence, but the record provides ample grounds to justify the inference of independence. In light of these facts of record and what a reasonable person would infer from the situation presented, the inventory search was conducted “independently of”—in the sense of not contingent upon—the overdose report. In either event, like the Majority, I believe that the lower court's ruling must be affirmed.

¹² See Notes of Testimony (“N.T.”), 4/27/2023, at 7 (identifying the time of the encounter as “the afternoon”); *id.* at 12 (“[The car] was going to be towed . . . [b]ecause it was non-legally parked on the street. It was into a fence.”); *id.* 26 (the prosecutor indicating that Wilson's car “had stopped after hitting a fence outside of the Dancing Gnome bar” and further describing it as “illegally parked on the side of a dangerous road in Sharpsburg . . . blocking the entrance to a business”); N.T., 6/1/2023, at 11 (the prosecutor arguing that the evidence, including video, that the vehicle had “recently been in an accident,” evinced by damage). The purpose of the April 27, 2023 hearing was to review a suppression motion. However, the parties agreed at the June 1, 2023 proceeding to incorporate the suppression hearing record as well as body cam video and lab reports for purposes of disposition. The court heard argument, rendered a verdict, and imposed Wilson's sentence at that June 1, 2023 proceeding.

¹³ I have expressed the view that inventory searches are unconstitutional under the Pennsylvania Constitution. See *Commonwealth v. Thompson*, 315 A.3d 1277, 1278-1290 (Pa. 2024) (Wecht, J., dissenting from the *per curiam* dismissal as improvidently granted). However, that question is not presented in this case, and inventory searches remain permissible under Pennsylvania's Constitution notwithstanding my contrary view. Thus, I am inclined to agree that the contents of Wilson's passenger compartment would have been discovered in any event as an incident of the necessary towing of his vehicle from its illegal position.

Justices Brobson and McCaffery join this concurring opinion.