

2026 PA Super 205

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
CAMERON SERRANO	:	No. 1869 EDA 2025

Appeal from the Order Entered June 24, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at
No(s): CP-51-CR-0007113-2024

BEFORE: LAZARUS, P.J., SULLIVAN, J., and STEVENS, P.J.E.*

OPINION BY LAZARUS, P.J.: **FILED SEPTEMBER 18, 2026**

The Commonwealth of Pennsylvania appeals from the order, entered in the Court of Common Pleas of Philadelphia, granting Cameron Serrano's pre-trial motion to suppress a firearm.¹ Upon careful review, we reverse and remand for further proceedings.

The suppression court summarized the relevant facts as follows:

On August 26[,] 2024, Officers [Daniel] Ransom and [Brendan] McCauley were on patrol in a marked police vehicle. They were both in uniform. Officer Ransom received a phone call from a fellow officer, Officer Thomas.^[2] [Officer Thomas] reported seeing a person of interest, [] Serrano, standing near the intersection of Reese and Somerset [Streets] in Philadelphia.

* Former Justice specially assigned to the Superior Court.

¹ The Commonwealth properly certified that the suppression court's order would terminate or substantially handicap its prosecution pursuant to Pa.R.A.P. 311(d). **See** Notice of Appeal, 7/21/25.

² Officer Thomas's first name does not appear in the record.

[Officer Thomas] reported that [] Serrano was wearing a white T-shirt, shorts, and had a black fanny pack. A moment later, [Officer Thomas] sent [a] photograph of [] Serrano [to Officers McCauley and Ransom], as well as gave Officer Ransom [] Serrano's date of birth. Officer Ransom used the on-board police computer and performed a warrant search.

The results of that search indicated that there was an active arrest warrant for [] Serrano. Officers McCauley and Ransom drove to the intersection of Reese and Somerset [Streets]. There were several people milling around the general area of the intersection. There was also a tent set up on a nearby sidewalk.

Upon arriving, [] Serrano was seen to be crouching behind a parked pick-up truck. As the police [] vehicle stop[ped], [] Serrano popped up and began to back away. Officer Ransom exited [his] vehicle and attempted to engage [] Serrano. [] Serrano continued to move away from the officers. Officer Ransom asked to speak with [] Serrano[, who] subsequently began running away.

After a brief chase, Officer Ransom and another officer c[ought] [] Serrano and place[d] him under arrest. [Serrano] did not have any keys to the truck on his person. Meanwhile, Officer McCauley was looking around the area of the vehicle where [] Serrano had been seen crouching. During this visual search, Officer McCauley s[aw] a black [] satchel on the truck bed floor in the rear of the pick-up truck.

The truck bed had four walls, approximately a foot and a half high[] each. [T]he tailgate was closed, creating a box-like area defining the rear of the truck. There was no cover over the truck bed. It was open to the air.

Officer McCauley reached into the truck bed and removed the satchel. He subsequently took the satchel to the police vehicle and searched it, wherein[] he found [a] gun. [Officer McCauley] secured the gun in the police vehicle and joined Officer Ransom in completing the arrest of [] Serrano.

N.T. Suppression Hearing, 6/24/25, at 4-6.

On August 27, 2024, Serrano was charged with three firearm offenses³ related to the gun the police found in the satchel. **See** Criminal Complaint, 8/27/24. Serrano filed an omnibus pre-trial motion on January 28, 2025, which sought to suppress the firearm. The suppression court held a hearing on the motion on June 18, 2025. At the close of the hearing, the parties made argument, and the suppression court held its decision in abeyance and set a date to reconvene for a decision on June 24, 2025. **See** N.T. Suppression Hearing, 6/18/24, at 35–51.

When the hearing resumed on June 24, 2025, the suppression court placed its findings of fact and conclusions of law on the record, **see** Pa.R.Crim.P. 581(I), and stated:

Officer McCauley seized the satchel from the rear of the truck bed without the required warrant and without any applicable exception to the warrant requirement. The satchel was seized in violation of [] Serrano’s constitutional rights under the Pennsylvania Constitution. And the subsequent search of the satchel was [the] fruit of that unconstitutional seizure. And the gun found in the satchel is hereby suppressed.

N.T. Suppression Hearing, 6/24/25, at 10.

The Commonwealth filed a timely notice of appeal and court-ordered concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). The Commonwealth raises the following issue for our review:

³ Serrano was charged with possession of firearm prohibited, 18 Pa.C.S.A. § 6105(a)(1); firearms not to be carried without a license, **id.** at § 6106(a)(1); and carrying firearms in public in Philadelphia. **Id.** at § 6108.

Did the [trial] court err by ordering suppression where [Serrano] did not establish that he had a reasonable expectation of privacy in an open bed of a parked truck into which he discarded his illegal gun, where: the truck was legally parked and unoccupied; the truck's lights and engine were off; [Serrano] was simply standing on the sidewalk next to the truck but otherwise demonstrated no possessory or privacy interest in the truck; and when [Serrano] was apprehended, no car keys were found on him?

Appellant's Brief, at 4.

In its brief, the Commonwealth argues that it carried its preliminary burden of establishing Serrano had no legitimate expectation of privacy in the truck bed into which he placed the bag containing the firearm. **See** Appellant's Brief, at 12. Because it did so, the Commonwealth asserts, the burden of persuasion shifted to Serrano to prove he had a legitimate expectation of privacy in the truck, and Serrano did not meet that burden. **Id.** The Commonwealth asserts that the suppression court failed to consider the totality of the circumstances when it stated the only evidence of Serrano's lack of expectation of privacy in the truck was the absence of car keys on his person/in his possession, ignoring evidence that Serrano demonstrated no connection to the parked truck apart from crouching behind it, and fled on foot when the police attempted to engage him. **Id.** at 14–16, 16–17.

Our standard of review of a Commonwealth appeal of a suppression order is well-settled:

When the Commonwealth appeals from a suppression order, we follow a clearly defined standard of review and consider only the evidence from the defendant's witnesses[,] together with the evidence of the prosecution that, when read in the context of the entire record, remains uncontradicted. The suppression court's findings of fact bind an appellate court if the record supports those

findings. The suppression court's conclusions of law, however, are not binding on an appellate court, whose duty is to determine if the suppression court properly applied the law to the facts.

Our standard of review is restricted to establishing whether the record supports the suppression court's factual findings; however, we maintain *de novo* review over the suppression court's legal conclusions.

Commonwealth v. Toliver, 355 A.3d 920, 932 (Pa. Super. 2026), quoting ***Commonwealth v. Korn***, 139 A.3d 249, 252–53 (Pa. Super. 2016).

"The Fourth Amendment to the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution guarantee the right of the people to be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures." ***Commonwealth v. Joyner***, 348 A.3d 230, 236 (Pa. Super. 2025), citing ***Commonwealth v. Morrison***, 166 A.3d 357, 363–64 (Pa. Super. 2017). However, "an individual's expectation of privacy in the place searched must be established to invoke constitutional protection." ***Commonwealth v. Viall***, 890 A.2d 419, 422 (Pa. Super. 2005), citing ***Commonwealth v. Melilli***, 555 A.2d 1254, 1258 (Pa. 1989). An expectation of privacy must be reasonable

[and] will be found to exist when the individual exhibits an actual or subjective expectation of privacy and that expectation is one that society is prepared to recognize as reasonable. In determining whether a person's expectation of privacy is legitimate or reasonable, the totality of the circumstances must be considered[,] and the determination will ultimately rest upon a balancing of the societal interests involved. The constitutional legitimacy of an expectation of privacy is not dependent on the subjective intent of the individual asserting the right but on whether the expectation is reasonable in light of all the surrounding circumstances.

Commonwealth v. Bostick, 958 A.2d 543, 552 (Pa. Super. 2009), quoting ***Viall***, 890 A.2d at 422 (internal quotation marks omitted); ***see also Commonwealth v. Peterson***, 636 A.2d 615, 619 (Pa. 1993).

The Commonwealth bears the initial burden to present evidence that the defendant lacked an expectation of privacy; however, the defendant “bears the ultimate burden of persuasion with respect to his reasonable expectation of privacy.” ***See Commonwealth v. Anderson***, 340 A.3d 297, 308 (Pa. 2025), citing ***Commonwealth v. Enimpah***, 106 A.3d 695, 701 (Pa. 2014). This burden must be established by a preponderance of the evidence and may be met by purely circumstantial evidence. ***See Anderson***, 430 A.3d at 308–09.

The suppression court supports its decision to suppress the evidence, first, by defining the bed of a pick-up truck as a location in which an owner, or someone else with an expectation of privacy in that truck, has just as much right to privacy as in the interior of the truck; and, second, by finding the Commonwealth did not meet its burden to prove Serrano had no reasonable expectation of privacy in the vehicle. We disagree.

Because the suppression court’s analysis of the status of the open truck bed presumes Serrano had a reasonable expectation of privacy in the truck as a whole, we begin with the preliminary question of whether the Commonwealth met its burden to demonstrate Serrano did not have such an

expectation.⁴ The suppression court explained the burden-shifting framework clarified in ***Enimpah, supra***, which requires that the Commonwealth produce evidence to demonstrate a defendant lacked a reasonable expectation of privacy in the location searched, which, if met, then shifts the burden to the defendant to persuade the court he or she reasonably had such expectation. ***Id.***, 106 A.3d 695; N.T. Suppression Hearing, 6/24/25, at 7–8.⁵ The court observed that, while a person using a vehicle without permission does not have a reasonable expectation of privacy in that vehicle, the person need not have a common law property right in the vehicle; instead, it noted, courts look to whether he or she is in lawful possession or control of the vehicle. ***Id.*** at 8, citing ***Byrd v. United States***, 584 U.S. 395 (2018).

The suppression court then reasoned:

In the present case, the only evidence the Commonwealth has in support of its contention that [] Serrano lacked a privacy interest was that he did not have keys to the vehicle on his person at the time he was arrested by the police.

Under the circumstances of the present case, this does not allow the [c]ourt to conclude that [] Serrano did not have an expectation of privacy. [] Serrano was not seen operating the vehicle. Nor was there any other suggestion that he had done so. The vehicle was parked in a legal parking spot in a residential neighborhood

⁴ Because we find the Commonwealth met its burden to prove the defendant lacked a reasonable expectation of privacy in the truck, ***see infra***, we need not reach the question of the reasonableness of an expectation of privacy in an open truck bed.

⁵ The suppression court issued a statement in lieu of an opinion, rather than a formal opinion pursuant to Pa.R.A.P. 1925(a), referring this Court and the parties to its findings of fact and conclusions of law stated on the record at the suppression hearing. ***See*** Statement in Lieu of an Opinion, 9/3/25.

in front of a house. There is no evidence about whether [] Serrano lived in that neighborhood.

What evidence was available to the [c]ourt was that [] Serrano was hanging around outside as a pedestrian for several minutes before the police engaged him. Therefore, on the present record, it is quite possible that [] Serrano was merely spending time outside of his home in his own neighborhood. Under such circumstances, there would be no reason for him to have the keys to his vehicle on his person. Therefore, the lack of such keys does not create the suggestion that the vehicle was not his.

Because the initial burden falls on the Commonwealth, the lack of evidence falls squarely upon the Commonwealth. []

N.T. Suppression Hearing, 6/24/25, at 8–10.

Upon review, we are constrained to find the suppression court erred in its analysis. Notably, although the court accurately identified the burden-shifting process, it did not mention the need to consider that test with respect to the totality of the circumstances. This perhaps explains why it inaccurately stated that the **only** evidence the Commonwealth presented to support Serrano's lack of a reasonable expectation of privacy in the truck was the fact that keys to the truck were not found on Serrano's person. However, the court then proceeded to enumerate other facts that suggested a lack of connection between Serrano and the truck. **See id.** at 8–9 (finding Commonwealth also introduced evidence truck was legally parked on public street in residential neighborhood, in front of house, and Serrano was not seen operating truck and there was no suggestion he had done so); **see also id.**, 6/18/25, at 24 (Officer McCauley testifying he observed no one in truck and no one taking ownership of truck). As the suppression court acknowledges, the only apparent connection between Serrano and the vehicle was the fact

that he was standing near the car, “hanging around outside as a pedestrian,” when police arrived. **See id.**, 6/24/25, at 9; **see also id.**, 6/18/25, at 16 (Officer Ransom testifying he observed Serrano standing behind rear wheel of truck, near truck bed); **id.** at 22–23 (Officer McCauley testifying he observed Serrano “crouch[ing] down next to a red pick-up truck on the south side of the street,” then “pop[ping] back up and [continuing] to walk eastbound [.]”); **id.** at 31 (Officer McCauley testifying when he first saw Serrano, “he was standing and then he crouched down behind the bed of the F-150”).

Ultimately, the trial court found that the lack of keys on Serrano’s person “does not create the suggestion **that the vehicle was not [Serrano’s].**” **See id.**, 6/24/25, at 9 (emphasis added). However, as decades of federal and state jurisprudence explain, ownership is not the litmus test for determining a defendant’s reasonable expectation of privacy in a vehicle when a defendant does not own that vehicle. **See, e.g., Byrd v. United States**, 584 U.S. at 404–05 (one who owns and possesses car or home almost always has reasonable expectation of privacy, but one need not have recognized common law property interest to claim such expectation; similarly, legitimate presence, standing alone, is insufficient to prove reasonable expectation of privacy; no single metric or exhaustive list of considerations resolves question in all cases); **Anderson**, 430 A.3d at 308 (finding “ownership of the property at issue is not a requirement for a reasonable expectation of privacy[,], notwithstanding the absence of ownership, evidence of lawful possession or control of property generally suffices to demonstrate a reasonable expectation

of privacy therein"). Proof of actual ownership is neither required nor dispositive of the issue, and we would be hard-pressed to find lack of proof of ownership should be treated any differently with regard to whether Serrano had a reasonable expectation of privacy in the truck.

We agree with Serrano that the Commonwealth's burden is "no mere formality," and that if the Commonwealth "fails to present any evidence about the defendant's expectation of privacy, suppression must be granted." **See** Appellee's Brief, at 8, citing **Enimpah**, 106 A.3d at 698. The instant case, however, is not analogous to **Enimpah**, where the Commonwealth presented **no** evidence at the suppression hearing, believing the burden was on the defendant to prove a reasonable expectation of privacy in the premises searched. **Enimpah**, 106 A.3d at 701. There, the trial court "was forced to decide the motion based solely on which party bore the burden of production." **Id.** In the instant case, the Commonwealth did produce evidence. That evidence, undeniably, did not show that Serrano did not own the vehicle.⁶ But failure to prove a negative is not required by any case law cited by the suppression court, and the suppression court was obliged to consider the issue under the umbrella of the totality of the circumstances, rather than limiting its analysis to strict property ownership. The testimony before the suppression court did not demonstrate indicia of Serrano's ownership,

⁶ We note with displeasure that the Commonwealth did not take the relatively simple step of running the pick-up truck's registration, which would have made resolution of the issue on appeal far more straightforward.

possession, or control of the vehicle apart from his proximity to the truck at the time the officers arrived on the scene and Serrano's placement of the bag in the open truck bed; Serrano neither introduced contrary evidence nor identified evidence presented by the Commonwealth to support a finding that he had a reasonable expectation of privacy in the truck.

In the cases cited by Serrano and the suppression court in which the Court found a defendant had a reasonable expectation of privacy in a vehicle, the officers observed the defendant inside that vehicle. **See *Anderson***, 340 A.3d 297; ***Byrd***, *supra*. In ***Anderson***, the defendant was driving the vehicle in which the police found contraband material, though the vehicle was registered to a third party, and the Pennsylvania Supreme Court determined the defendant had sufficiently demonstrated possession and control, and, therefore, a reasonable expectation of privacy. 340 A.3d at 301–03, 309–10. Similarly, in ***Byrd***, the defendant was the driver, and only occupant, of the vehicle in which the contraband items were found, and the United States Supreme Court found he had a reasonable expectation of privacy in the vehicle, even though the car was a rental he was not technically permitted to drive. Even in ***Enimpah***, where the Pennsylvania Supreme Court found the Commonwealth did not meet its burden to establish the defendant did not have a reasonable expectation of privacy in the vehicle, the defendant was a passenger in the car in which law enforcement officers located the contraband items.

In contrast, in ***Commonwealth v. Millner***, 888 A.2d 680 (Pa. 2005), the Pennsylvania Supreme Court reversed an order suppressing contraband items where the Commonwealth presented evidence that the defendant was standing at the driver's side of a parked car and tossed items into it. There, the Court found the defendant did not have a reasonable expectation of privacy in the car he stood beside. ***Id.*** at 682–83. The Court noted there was no evidence presented to suggest the defendant owned or otherwise had any lawful connection to the car, and his placement of the firearm in the vehicle was not enough to establish such a connection. ***Id.*** at 692. Furthermore, in its analysis, the Court noted that “the facts at bar suggest far less of a connection with the area searched than other cases in which this Court has held that an expectation of privacy did not exist, i.e., cases where the defendant was actually physically present inside the area searched.” ***Id.*** (citing cases) (italics omitted).

Thus, we find, under the totality of the circumstances, that the suppression court erred in suppressing the gun on the ground that the Commonwealth did not meet its burden to prove, by a preponderance of the evidence, that Serrano had no reasonable expectation of privacy in the truck.

Notwithstanding the foregoing, the police still searched Serrano's bag upon finding it. Thus, we must now consider whether Serrano had a

reasonable expectation⁷ of privacy in the bag found in the bed of the truck and, if so, whether he abandoned the bag. If so, the Commonwealth claims, the police did not violate Serrano's Fourth Amendment rights by opening the bag and finding the firearm. **See** Appellant's Brief, at 18 n.7; N.T. Suppression Hearing, 6/18/25, at 36–38.

A defendant cannot retain a reasonable expectation of privacy in property he or she has abandoned. **See Commonwealth v. Coles**, 317 A.3d 659, 664 (Pa. Super. 2024):

⁷ It is well-settled that:

[A] defendant charged with a possessory offense in the Commonwealth of Pennsylvania has automatic standing because the charge itself alleges an interest sufficient to support a claim under Pa. Const. art. I, § 8. This rule entitles a defendant to a review of the merits of his suppression motion without a preliminary showing of ownership or possession in the premises or items seized. In addition to standing, though, a defendant must show that he had a privacy interest in the place invaded **or thing seized** that society is prepared to recognize as reasonable.

Enimpah, 106 A.3d at 698 (emphasis added). “[E]vidence of lawful possession or control of property generally suffices to demonstrate a reasonable expectation of privacy therein.” **Commonwealth v. Anderson**, 340 A.3d 297, 308 (Pa. 2025).

The Commonwealth characterized the witnesses' testimony as establishing that Serrano “stealthily placed his bag” in the truck bed when “police were within sight.” **See** Appellant's Brief, at 14; **see also** Appellee's Brief, at 12. However, the police officers testified that the officer who called them said Serrano was carrying a black fanny-pack-style bag, but that he was not holding the bag when they arrived; Officer McCauley located the bag when he looked over at the truck and saw the bag sitting in the truck bed, on the side closer to the sidewalk. **See** N.T. Suppression Hearing, 6/18/25, at 8–9, 11, 16–17, 23, 24–25.

Abandonment is primarily a question of intent, and intent may be inferred from words spoken, acts done, and other objective facts. All relevant circumstances existing at the time of the alleged abandonment should be considered. The issue is not abandonment in the strict property-right sense but whether the person prejudiced by the search had voluntarily discarded, left behind, or otherwise relinquished his interest in the property in question so that he could no longer retain a reasonable expectation of privacy with regard to it at the time of the search.

Id., quoting ***Commonwealth v. Barnette***, 760 A.2d 1166, 1170–71 (Pa. Super. 2000).

To prove abandonment, it is not enough to show that property was placed in an area open to the public; the evidence must also demonstrate that the individual attempted to dissociate him- or herself from the property. ***See Commonwealth v. Byrd***, 987 A.2d 786, 791 (Pa. Super. 2009) (evidence established clear intent to relinquish control, and, therefore, abandonment, where defendant discarded handgun under SUV parked on public street and began to walk away from scene); ***Commonwealth v. Pizarro***, 723 A.2d 675, 679 (Pa. Super. 1998) (finding abandonment where defendant placed supply of drugs in bag so it was not in his immediate possession and then stood 10 to 15 feet away, only returning to bag when transacting sale); ***Commonwealth v. Johnson***, 636 A.2d 656, 659 (Pa. Super. 1994) (finding bag abandoned where defendant “strategically” placed bag in tree in public park, “not immediately visible to passersby,” stood 10 to 12 feet away, and approached only to show potential customers drugs to sell; placement of bag “constituted a conscious effort to dissociate himself from the bag in the event there was police intervention”). ***Cf. Smith v. Ohio***, 494 U.S. 541, 543–44

(1990) (defendant who attempted to protect sack from search after throwing it on hood of his car in response to police inquiry did not abandon sack); ***Commonwealth v. Sanders***, 595 A.2d 635, 637 (Pa. Super. 1991) (defendant's "equivocal act" of placing pouch on hood of nearby car insufficient to demonstrate "clear intent to relinquish his interest in the property," as he did not walk away from car "or otherwise attempt to dissociate himself further from the pouch;" facts are distinguishable from cases where defendant "made clear an intent to abandon by discarding the evidence").

Serrano suggests there is a distinction between placing an item in a truck bed, which is the property of a private owner, and leaving it in or on publicly owned property, positing that it is more reasonable to expect privacy in a location where another individual may have a reasonable expectation of privacy. **See** N.T. Suppression Hearing, 6/18/25, at 37–38; Appellee's Brief, at 13–14. He cites no case law to support this proposition, and we have found none. Rather, this Court and the Pennsylvania Supreme Court have found a lack of reasonable expectation of privacy in items discarded in both publicly owned property and property owned by a known or unknown third party. **See, e.g., *Peterson***, 636 A.2d at 618–19 (no reasonable expectation of privacy in bag located in storefront, regardless of fact that police did not know who owned building before they broke into it and there was no conclusive proof building had been abandoned); ***Coles***, 317 A.3d at 664 (no reasonable expectation of privacy where defendant discarded backpack in kitchen of

adjacent house she had no permission to enter and then fled); **Viall**, 890 A.2d at 423 (unreasonable for defendant to have expected privacy interest in bag placed in common area of backseat of car in which he was travelling; area was not shielded from view of many others in same space); **Commonwealth v. Clark**, 746 A.2d 1128, 1132, 1133–34 (Pa. Super. 2000) (defendant’s decision to place supply of drugs in weeded lot and lawn area “some distance away” from where he conducted drug transactions established effective abandonment of any reasonable expectation of privacy to them); **Pizarro**, 723 A.2d at 679 (defendant abandoned reasonable expectation of privacy in bag when he deposited it on front lawn of property owned by unknown third party, in “location readily accessible to anyone frequenting the corner”); **In Interest of J.J.**, 668 A.2d 1176, 1180 (Pa. Super. 1995) (no reasonable expectation of privacy in bag defendant hid inside storm door of house which he did not establish he owned or otherwise held reasonable privacy interest in); **Johnson**, 636 A.2d at 659 (no reasonable expectation of privacy in bag placed in tree in public park, where it was “accessible to anyone frequenting the park”); **Commonwealth v. Anderl**, 477 A.2d 1356, 1363–64 (Pa. Super. 1984) (no reasonable expectation of privacy where defendant hid contraband on property of unknown third party).

In this case, Serrano, who was originally crouched behind the truck when the officers first arrived on the scene, began to walk away from the truck

(and the bag, which was already placed in the truck bed)⁸ when police approached him, and eventually “fled,” leaving the bag behind in the bed of the pick-up truck. **See** N.T. Suppression Hearing, 6/18/25, at 11–12, 22–23, 31. Serrano did not remain near the vehicle or bag, as did the defendants in **Smith** and **Sanders**, nor did his behavior suggest he intended to return to retrieve the bag. These facts are consistent with a determination that, since Serrano deposited the bag into a truck in which he appeared to have no personal interest, the bag was abandoned, and the police were permitted to recover and search it without a warrant.⁹

Because we find Serrano did not have a privacy interest in the truck, we need not decide whether the suppression court correctly determined that the open truck bed was protected by virtue of being part of the truck, and we therefore decline to address the issue.¹⁰

⁸ **See** n.7, *supra*.

⁹ Once property is abandoned, a defendant has “no standing to contest the search and seizure of the items.” **Coles**, 317 A.3d at 664, quoting **Commonwealth v. Hall**, 305 A.3d 1026, 1033 (Pa. Super. 2023).

¹⁰ The suppression court noted that neither the parties nor the suppression court were able to find case law addressing the status of an open truck bed in Fourth Amendment jurisprudence and, therefore, it appeared to be a question of first impression. **See** N.T. Suppression Hearing, 6/18/25, at 6. It reasoned, however, that “[o]n balance, it seems that our society would define the bed of a pick-up truck as part of the vehicle warranting an expectation of privacy,” because “[i]t is not societally permissible for a stranger to climb into a pick-up truck and begin rummaging around through the items contained in that space.” **Id.** at 7. It continued, saying that “[w]hile it may be easier for a person to accomplish such activity because of the relatively open nature of
(Footnote Continued Next Page)

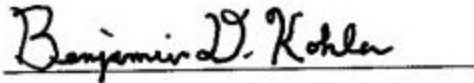
that space, it is still viewed as an issue that is expected to be honored as private and protected.” **Id.** at 7. It likened items located in the truck bed to “the chattels of a house. Outside and unsecured, it is still expected to be private and protected by the requirements of search warrants.” **Id.** at 7.

Though individuals indisputably enjoy privacy rights to their property, the United States Supreme Court has also noted that “[p]olice cannot reasonably be expected to avert their eyes from evidence of criminal activity that could have been observed by any member of the public. Hence, what a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection.” **California v. Greenwood**, 486 U.S. 35, 41 (1988). It follows that even if an item is located inside an individual’s zone of private property, a suppression court must still consider whether an expectation of privacy is reasonable, and our courts have done just that. **See, e.g., Florida v. Riley**, 488 U.S. 445, 447–48, 450–51 (1989) (defendant could not have reasonably believed his partially covered greenhouse was protected from aerial observation, even though it fell within curtilage of his residence, regardless of what he intended and expected); **California v. Ciraolo**, 476 U.S. 207, 209, 211–15 (1986) (no Fourth Amendment violation where law enforcement officers, via aerial observation, saw marijuana growing in defendant’s garden, which was surrounded by 10-foot fence; though yard was within curtilage of defendant’s home, and though defendant clearly manifested “subjective intent and desire to maintain privacy,” defendant did not have reasonable expectation of privacy where anyone flying over airspace who glanced down could see garden); **Commonwealth v. Cihylik**, 486 A.2d 987, 988, 991–92 (Pa. Super. 1985) (defendant did not have legitimate expectation of privacy in contents of garbage pit located beside barn on lot defendant was leasing, where pit was clearly observable from street but contents were not, lot was not fenced or enclosed but was closely surrounded by alleys and neighboring buildings, and it was clear defendant used pit as garbage dump and it was left open and accessible to anyone crossing lot; Court endorsed trial court’s finding that “the wide-open appearance of the pit, its location in an unfenced yard, the easy access provided by an adjoining public alley, and the proximity of other homes” make defendant’s expectation of privacy “not one which society is prepared to recognize as reasonable”). None of this is to say Serrano could not have prevailed in arguing that an open truck bed provides the same privacy protection as the interior of a vehicle; we simply note that it requires analysis.

We conclude, therefore, that Serrano had no reasonable expectation of privacy in the pick-up truck, and his deposit of his bag inside it constituted abandonment. Accordingly, because the trial court erred as a matter of law, we reverse the trial court's grant of suppression and remand for further proceedings.

Order reversed. Case remanded. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/18/2026