

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-2955

UNITED STATES OF AMERICA

v.

FRED HUMPHRIES,
Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
D.C. Criminal No. 04-cr-00535
(Honorable John R. Padova)

Argued March 1, 2007

Before: SCIRICA, *Chief Judge*, McKEE and NOONAN*, *Circuit Judges*.

(Filed June 7, 2007)

BRETT G. SWEITZER, ESQUIRE (ARGUED)
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Attorneys for Appellant

*The Honorable John T. Noonan, Jr., United States Circuit Judge for the Ninth Judicial Circuit, sitting by designation.

SUSAN L. FIELDS, ESQUIRE (ARGUED)
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Attorney for Appellee

OPINION OF THE COURT

NOONAN, *Circuit Judge*.

Fred Humphries (“Humphries”) pled guilty to one count of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). He appeals, arguing that the district court erred by denying his motion to suppress evidence discovered in his vehicle. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

We may affirm the district court’s judgment on any basis supported by the record. *Erie Telecomms. v. Erie*, 853 F.2d 1084, 1089 (3d Cir. 1988). While Humphries was actually arrested for a DUI violation, there was probable cause to arrest Humphries for leaving the scene of an accident in violation of 75 Pa. C. S. § 3743. *See Devenpeck v. Alford*, 543 U.S. 146, 154-55 (2004). Two Philadelphia police officers observed Humphries backing his Nissan Pathfinder up the wrong side of the street, away from another vehicle pinned against a fence. The occupants of the pinned vehicle were pointing toward the Pathfinder, which had extensive damage to its front end. Based on the facts known to the officers, there was probable cause to believe that Humphries was leaving the scene of an accident, and they had authority to arrest him for this offense without a warrant. *See id.* at 152; *see also* 75 Pa. C. S. § 6304. Thus, the evidence at

issue is admissible because it was obtained during a search incident to a lawful arrest. *New York v. Belton*, 453 U.S. 454, 460 (1981). We need not reach the issue of whether the evidence was admissible under the doctrine of inevitable discovery. *See Nix v. Williams*, 467 U.S. 431 (1984).

AFFIRMED.