CRIMINAL LAW AND PROCEDURE QUESTION

A police officer (Officer) on routine traffic patrol watched Suspect drive by. Suspect was in compliance with all applicable traffic laws except the state seat belt law. The state motor vehicle code provides that police officers have discretion to make an arrest for any traffic infraction, including violation of the state seat belt law. Officer had never stopped a driver merely for violating the seat belt law. However, Officer knew that Suspect was a reputed drug dealer and stopped Suspect’s vehicle, hoping to uncover evidence of a more serious crime.

Officer directed Suspect to get out of his vehicle, handcuffed Suspect, and told Suspect that he was under arrest for violating the seat belt law. Immediately afterward, Officer looked through the driver’s-side car window and noticed a clear plastic bag containing white powder on the front seat of Suspect’s car. Officer asked Suspect, “Are those drugs yours?” Suspect responded, “No, that cocaine isn’t mine!” Officer then opened the car door and removed the bag of white powder.

Officer transported Suspect to the police station for booking. An hour later, Detective visited Suspect in the police station holding cell to attempt an interview. Detective read Suspect his Miranda rights. Suspect stated that he understood his Miranda rights but nonetheless would answer Detective’s questions. Suspect voluntarily answered Detective’s questions for about five minutes and then said, “I’m not sure about this. Maybe I need a lawyer.” Detective did not seek clarification of Suspect’s statement but continued to question Suspect, who ultimately confessed to possessing the cocaine found in his car.

The state charged Suspect with misdemeanor violation of the seat belt law and felony drug possession. Suspect has moved to suppress all the state’s evidence, alleging an unlawful stop, an unlawful arrest, an unlawful seizure of evidence, and multiple Miranda violations.

1. Did the traffic stop and subsequent arrest violate Suspect’s constitutional rights? Explain.

2. Did Officer’s seizure of evidence from Suspect’s car violate Suspect’s constitutional rights? Explain.

3. Did Officer’s questioning of Suspect violate Suspect’s Miranda rights? Explain.

3. Should Suspect’s confession to Detective be suppressed? Explain.
ANALYSIS

Legal Problems

(1) Was it constitutional for Officer to stop and arrest Suspect for a petty traffic offense when Officer’s real motive was to find evidence of other crimes?

(2) Was it constitutional for Officer to seize evidence from Suspect’s car?

(3) Did Officer’s questioning of Suspect violate Suspect’s rights under *Miranda*?

(4)(a) Did Officer’s questioning of Suspect make Detective’s subsequent interrogation of Suspect unconstitutional?

(4)(b) Was Suspect’s ambiguous statement regarding a lawyer sufficient to invoke Suspect’s right to an attorney and to require Detective to cease interrogation?

DISCUSSION

Summary

Officer had probable cause to believe that Suspect was violating traffic laws based on his own observations of Suspect. Officer therefore acted constitutionally in stopping and arresting Suspect. The stop and the subsequent arrest are constitutional despite the fact that the traffic infraction was minor, Officer had never previously arrested anyone for a seat belt violation, and Officer had another motive for making the stop.

It was also lawful for Officer to engage in a “plain view” search of the front seat of Suspect’s car by looking into the window after the arrest of Suspect.

Officer violated Suspect’s constitutional rights by interrogating Suspect at the scene after arresting him without first providing *Miranda* warnings and obtaining a valid waiver. Thus, Suspect’s responsive statement to Officer at the scene is inadmissible. However, Officer’s *Miranda* violation does not make Suspect’s subsequent interrogation by Detective unconstitutional. A violation of *Miranda* does not taint derivative evidence (e.g., Suspect’s statement made during the second interrogation). Moreover, Detective’s second interrogation was a separate interrogation that involved a change in time, place, and circumstance. Prior to Detective’s second interrogation, *Miranda* warnings were given and a knowing and valid waiver was obtained. Suspect’s equivocal and ambiguous statement about possibly needing a lawyer was not an invocation by Suspect of his *Miranda* right to silence, so Detective did not need to cease his interrogation and provide Suspect with an attorney.

*Point One (25%)*
A traffic stop and arrest with probable cause does not violate the Fourth Amendment even if the offense was minor and the stop served as a pretext for investigating other criminal wrongdoing. Under the Fourth Amendment, the constitutional reasonableness of a traffic stop does not depend on the motivation of the officer involved or the petty nature of the offense charged, as long as state law permits an arrest. See *Whren v. United States*, 517 U.S. 806, 810 (1996) (“As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.”). If the officer has probable cause to believe that a suspect has committed an offense, then a stop and arrest of that suspect is reasonable if authorized under the applicable state statute. See *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001) (“If an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.”).

Here, the arrest was constitutional because Officer had probable cause, based on his personal observations, to believe that Suspect was committing a traffic violation and the state seat belt statute permitted arrest. The stop and subsequent arrest were constitutional despite the fact that the traffic infraction was minor and Officer had never previously arrested anyone for a seat belt violation. In addition, the stop and arrest were constitutional even if Officer used the seat belt violation as a pretext to investigate criminal wrongdoing based on Officer’s knowledge that Suspect was a reputed drug dealer. *Whren*, 517 U.S. at 813–14.

**Point Two (25%)**

Officer’s seizure of evidence from the front seat of Suspect’s car did not violate the Fourth Amendment.

Under the Fourth Amendment, a police officer is lawfully permitted to seize evidence without a warrant if the evidence is found in plain view during lawful observation. See *Coolidge v. New Hampshire*, 403 U.S. 443, 465 (1971) (“It is well established that under certain circumstances the police may seize evidence in plain view without a warrant.”). Under the plain view doctrine, “if police are lawfully in a position from which they view an object, if its incriminating character is immediately apparent, and if the officers have a lawful right of access to the object, they may seize it without a warrant.” *Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993).

In this case, Officer had probable cause to stop and arrest Suspect for a traffic law violation based on his own observation of Suspect’s violation of the seat belt law. Following the arrest, Officer was lawfully permitted to look into the car window while the car was stopped on a public road. Officer had probable cause to believe that white powder contained in a clear plastic bag in the car of a reputed drug dealer is likely to be an illegal drug, and Officer had additional cause to support that belief after Suspect stated, “That cocaine isn’t mine,” in response to Officer’s question about the bag. The fact that Suspect’s statement is inadmissible, see Point Four(a), does not prevent Officer from relying on the statement to establish probable cause. The lawful access requirement “guard[s] against warrantless entry onto premises whenever contraband is viewed from off the premises . . . but does not bar the seizure of evidence in a parked car” that is observed by an officer who is viewing contraband from a lawful vantage point. *Boone v. Spurgess*, 385 F.3d 923 (6th Cir. 2004). See also *United States v. Gillon*, 348 F.3d 755, 759–60 (8th Cir. 2003) (once officers saw “what appeared to be bags containing crack cocaine” in a parked car “they had a right of access to the passenger compartment of the car” to
seize the likely contraband). Cf. United States v. Ross, 456 U.S. 798 (1982) (police officers who have probable cause to believe a vehicle contains contraband had lawful right to enter and search vehicle and seize contraband found therein).

**Point Three (15%)**

Officer violated Suspect’s Miranda rights when Officer arrested Suspect and interrogated him without providing Miranda warnings and obtaining a valid waiver.

A person under arrest is in custody and must first receive Miranda warnings before being subjected to interrogation. Miranda v. Arizona, 384 U.S. 436, 444 (1966) (Prior to any questioning, a person under arrest “must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed.”). Here, Officer arrested Suspect and then interrogated Suspect, asking him “Are these drugs yours?” without first providing Miranda warnings. This custodial interrogation involved express questioning of Suspect by Officer that violated Suspect’s Miranda rights. See Rhode Island v. Innis, 446 U.S. 291, 300–01 (1980) (“[T]he Miranda safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent.”).

**Point Four(a) (25%)**

Officer’s Miranda violation did not taint Detective’s subsequent interrogation.

Statements taken during custodial interrogations conducted in violation of Miranda are excluded from the prosecution’s case-in-chief. However, a violation of Miranda is a violation of a constitutional “rule,” see Dickerson v. United States, 530 U.S. 428, 444 (2000), not a direct violation of the constitution. Unlike direct violations of the constitution, Miranda violations do not taint derivative evidence and the “fruit of the poisonous tree” doctrine does not apply. See United States v. Patane, 542 U.S. 630, 631–32 (2004) (“Unlike . . . actual violations of the Self-Incrimination Clause, there is, with respect to mere failures to warn, nothing to deter . . . [and] therefore no reason to apply [Wong Sun’s] ‘fruit of the poisonous tree’ doctrine.’”).

In Oregon v. Elstad, 470 U.S. 298, 305–09 (1985), the U.S. Supreme Court held that, if a suspect was subjected to custodial interrogation without the benefit of Miranda warnings, a subsequent confession by the suspect may nonetheless be admitted if the totality of circumstances establishes that the second statement was knowing and voluntary. Unless the police engage in an interrogation process that must “realistically [be] seen as part of a single unwarned sequence of questioning,” see Missouri v. Seibert, 542 U.S. 600, 612 n. 4 (2004), subsequent custodial interrogation following a break in the initial proceedings, Miranda warnings, and a waiver of rights is constitutional. See id. See also Elstad, 470 U.S. at 318 (“a suspect who has once responded to unwarned yet uncoercive questioning is not thereby disabled from waiving his rights and confessing after he has been given the requisite Miranda warnings.”).

Here, Officer’s initial unwarned custodial interrogation should not prevent the prosecution from using Suspect’s later confession to Detective. After Officer’s original Miranda violation, Suspect was taken to the police station where Detective provided proper Miranda warnings and obtained Suspect’s knowing and voluntary waiver before interrogating Suspect.
Detective’s provision of *Miranda* warnings at a later time and in a different place rendered Suspect’s later statements to Detective admissible.

**Point Four(b) (10%)**

Suspect’s statement that he might want an attorney was too ambiguous to require Detective to cease interrogation.

Pursuant to *Davis v. United States*, 512 U.S. 452, 458 (1994), if an arrestee makes an unambiguous and unequivocal request or demand for an attorney, the police must cease the interrogation and honor the request.

Suspect did not make such a request or demand; the statement “I’m not sure about this. Maybe I need a lawyer” was ambiguous and equivocal. *Id.* at 459–62. See also *United States v. Johnson*, 400 F.3d 187, 195 (4th Cir. 2005), citing *Burket v. Angelone*, 208 F.3d 172, 197–98 (4th Cir. 2000) (“I think I need a lawyer” is not an unambiguous request for an attorney.). Therefore, Detective was not required to cease the interrogation and provide Suspect with an attorney. Indeed, Detective was not even obliged to seek clarification of Suspect’s intentions. *Davis*, 512 U.S. at 461–62 (declining to “adopt a rule requiring officers to ask clarifying questions” and concluding that when a suspect’s statement “is not an unambiguous or unequivocal request for counsel, the officers have no obligation to stop questioning him”). Detective therefore did not violate Suspect’s rights by ignoring Suspect’s equivocal statement about an attorney, and the court should not suppress Suspect’s confession.