

COMMONWEALTH OF PENNSYLVANIA v.
TIMOTHY A. GEESAMAN,
C.P. Franklin County Branch, Criminal Action No. 503-2000

Investigatory Detention — Reasonable Suspicion

1. Police and citizens may interact in one of three ways: mere encounters, investigatory detentions and custodial detentions.
2. In a mere encounter with law enforcement, citizens need not provide information that may be requested.
3. Investigative detentions must be supported by reasonable suspicion because of their invasiveness and custodial detentions must be supported by full probable cause.
4. Police may order individuals out of their vehicle during a traffic stop, but must release them if they have no reasonable suspicion of criminal activity, supported by articulable facts.
5. Mere presence in a high crime area does not support reasonable suspicion.
6. There is no reasonable suspicion when a police officer has a pre-existing knowledge of drug activity at a location at certain times, has a pre-existing knowledge of a defendant's prior bad acts, has knowledge obtained during the stop of a defendant's probationary status due to a prior drug charge and he personally observes a defendant's nervous behavior during the stop, but sees no drug activity whatsoever during the stop.

Appearances:

T.R. Williams, Assistant District Attorney
Gregory Barton Abeln, Esq.

OPINION AND ORDER

Walker, P.J., August 18, 2000

Factual and Procedural History

On November 5, 1999, defendant Geesaman was seated in a vehicle parked outside Waynesboro Senior High School in a "no stopping, no standing" zone. Officer Taylor of the Waynesboro Police Department approached the passenger side of the vehicle to speak to him while other officers spoke to the driver, Cindy Baker. Defendant attempted to exit the vehicle several times, but was eventually persuaded to remain inside the vehicle while Ms. Baker retrieved her registration from the vehicle's trunk.

Officer Taylor spoke to defendant, learning that he was on probation and repeatedly informed that he needed to get to work. Moments later, Officer Taylor ordered defendant out of the vehicle. Defendant then exited the vehicle, ran away from the scene, stopped to deposit six (6) baggies of

marijuana and a pipe in a pile of leaves and was eventually apprehended and arrested by the officers. The officers at the scene then retrieved the discarded items, leading to the current charges against Geesaman.

Discussion

Three types of interactions between police and citizens are possible: mere encounters, investigative detentions and custodial detentions. *Commonwealth v. Ellis*, 541 Pa. 285, 293. Mere encounters occur when police officers, possibly acting without any suspicion whatsoever, request information that citizens in turn are not required to provide. *Id.* at 293-94. Alternatively, investigative detentions must be supported by reasonable suspicion because of their invasiveness, requiring citizens to stop by means of physical force or show of authority. *Id.* at 294. Lastly, a custodial detention is essentially an arrest and must be upheld by probable cause. *Id.*

While law enforcement officers may order a citizen to exit a vehicle during a traffic stop they are nonetheless constitutionally obliged to release the citizen absent a reasonable suspicion that criminal activity is afoot or the suspect presents a danger. *Commonwealth v. Brown*, 439 Pa.Super. 516, 654 A.2d 1096 (1995), *Commonwealth v. Rodriguez*, 695 A.2d 864 (Pa.Super. 1997). The officer's reasonable suspicion must be evidenced by specific and articulable facts. *Commonwealth v. Espada*, 364 Pa.Super. 604, 528 A.2d 968 (1987). A suspect's mere presence in a high crime area or a police officer's "hunch" do not warrant a stop by police. *Commonwealth v. Kearney*, 411 Pa.Super. 274, 601 A.2d 346 (1992), *Commonwealth v. Bowersox*, 450 Pa.Super. 176, 675 A.2d 718 (1996).

The Commonwealth essentially has conceded that there was an investigatory detention, and the remaining issue is whether the officers had reasonable suspicion of criminal activity with a factual basis. The first evidence presented by the Commonwealth to support Officer Taylor's reasonable suspicion is his existing knowledge from informants and school officials of drug activity at the school after dismissal. Next, the Commonwealth offers that Officer Taylor had knowledge from a Chambersburg Police Department officer that defendant once attempted to sell drugs at the Franklin County Courthouse. Additionally, the Commonwealth states that reasonable suspicion may also be supported in this case by the information obtained from defendant at the scene concerning his probation on a prior drug charge. Finally, the Commonwealth proposes that reasonable suspicion may be supported by Officer Taylor's observation of defendant's nervous behavior and his requests to leave in order to go to work.

The court agrees with defendant that the above facts do not support a finding of reasonable suspicion. Officer Taylor did not testify at the hearing that he observed drug activity occurring inside or around the vehicle before approaching it. Ostensibly, he and the other officers at the scene moved to Ms. Baker's vehicle because of a traffic violation, not because of a drug transaction or any other criminal activity. Once there, no officer observed any criminal activity whatsoever. The Commonwealth presented no evidence of any officer's personal observations of criminal activity at the scene, much less any threat of danger.

The evidence presented to the court is merely Officer Taylor's existing, second-hand knowledge of defendant's past, uncharged criminal activity, a general knowledge of past drug activity at the location and his subjective conjecture of the defendant's nervous demeanor. While the court understands that some police officers may at times feel their hands are tied and hard work stymied by the courts, the citizens of the Commonwealth should be comforted to know that the above facts plainly cannot and must not meet the standard for reasonable suspicion.

ORDER OF COURT

August 18, 2000, upon review of defendant's suppression motion, the evidence presented at the hearing and the briefs submitted to the court, defendant's motion is granted. All evidence of the marijuana and pipe is suppressed.

NOTICE

Pennsylvania Sens. Arlen Specter and Rick Santorum have announced that they will convene bipartisan commissions to make recommendations for vacancies in the U.S. District Courts and among the U.S. attorneys and U.S. marshals for the three districts in Pennsylvania.

Recommendations for these positions should be sent to:

Frederick W. Anton, Esq.
Thomas Kline, Esq.
1525 Locust St., 19th floor
Philadelphia, PA 19102

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