

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO: 00-11,899

VS :

DERRICK FRIDAY :

OPINION AND ORDER

Before the Court is Defendant's Motion to Suppress. Defendant has been charged with possession with the intent to deliver cocaine and related charges as a result of an incident that occurred on December 1, 2000. After a review of the testimony presented at the hearing on the motion, the Court finds the following facts relevant to the Suppression.

Officer Don Mayes of the Williamsport Bureau of Police testified that he is the community policing officer for the Timberland Housing Projects. He testified that he had contacts with the Defendant on many occasions prior to the incident on December 1, 2000. He testified that the Defendant was pleasant and respectful on all occasions. When Officer Mayes approached the area on December 1, 2000, the Defendant was on a bicycle, leaning into a car and speaking with someone. Mayes testified that it appeared that some sort of transaction was taking place, but he did not hear any conversation, or see any exchange. Upon seeing Officer Mayes, the Defendant looked over his shoulder and drove away from the car. Mayes testified that as soon as the Defendant started to drive away from the car, he noticed that the Defendant's bicycle did not have a headlamp.

Mayes instructed that Defendant to stop for a moment, to inform him that he needed a headlight on his bike. Mayes additionally asked the Defendant where he got

his bike. Mayes testified that the Defendant did not want to speak with him. Mayes testified that the Defendant suddenly became aggressive and used profanity. When Mayes asked the Defendant for identification, the Defendant told Mayes that he already had it, and shoved his bike at Mayes. At that point, Mayes informed the Defendant that he was being arrested for disorderly conduct. After a short foot chase, the Defendant was detained and arrested. When the Defendant was strip-searched at the time of processing, officers found straws containing cocaine in the Defendant's genital area.

Defendant argues that the initial stop of the Defendant was pretextual, and that Officer Mayes had no reasonable suspicion to justify the stop. Interaction between citizens and police officers is varied and requires different levels of justification depending upon the nature of the interaction and whether or not the citizen is detained. Such interaction may be classified as a "mere encounter," an "investigative detention," or a "custodial detention."

A "mere encounter" can be any formal or informal interaction between an officer and a citizen, but will normally be an inquiry by the officer of a citizen. It need not be supported by any level of suspicion. The hallmark of this interaction is that it "carries no official compulsion to stop or respond." [Commonwealth v. DeHart](#), 745 A.2d 633, (2000), *citing* [Commonwealth v. Allen](#), 452 Pa.Super. 200, 681 A.2d 778, 782 (1996) (*citing* [Florida v. Royer](#), 460 U.S. 491, 103 S.Ct. 1319, 75 L.Ed.2d 229 (1983)).

Instantly, the Court would find that the initial approach of the Defendant, a person whom Mayes had conversed with before, to inquire about the bike, (which Mayes had never

seen the Defendant ride before), and to inform him of the headlamp rule was justified as a mere encounter.

An "investigative detention" by implication, carries an official compulsion to stop and respond, but the detention is temporary, unless it results in the formation of probable cause for arrest, and does not possess the coercive conditions consistent with a formal arrest. Since this interaction has elements of official compulsion it requires "reasonable suspicion" of unlawful activity. [DeHart](#), *supra*. Upon being confronted by the Defendant's unusual aggressive and combative behavior, Mayes developed the reasonable suspicion of unlawful activity necessary to raise the level of the interaction to an "investigative detention." The Court therefore finds Mayes request for the Defendant's identification was justified as an investigative detention.

When the situation escalated to the point that the Defendant was using profanity and threw his bike at Mayes, he had established probable cause to arrest the Defendant for disorderly conduct. The incident thus proceeded through all three of the categories. This being so, the encounter was lawful, as was any evidence found as a result of the encounter. The Court therefore denies Defendant's motion to suppress.

ORDER

AND NOW, this _____ day of May, 2001, based upon the foregoing opinion, it is ORDERED and DIRECTED that the Defendant's Motion to Suppress is DENIED.

BY THE COURT,

Nancy L. Butts, Judge

xc: Diane Turner, Esquire
Edward J. Rymysz, Esquire
CA
Honorable Nancy L. Butts
Judges
Law Clerk
Gary Weber, Esquire