

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 02-11,865
	:
	:
vs.	: CRIMINAL DIVISION
	: Motion to Suppress
GARY L. COLEMAN,	:
Defendant	:

OPINION AND ORDER

Defendant has been charged with criminal trespass, possession with intent to deliver, possession of a controlled substance and possession of drug paraphernalia. In the instant Motion to Suppress, filed January 28, 2003, Defendant contends the stop of his person which led to discovery of the drugs and further, to his flight and seeking of refuge in a basement, which led to the criminal trespass charge, was not supported by the necessary reasonable suspicion. Defendant argues, therefore, that the drugs and the subsequent flight must be suppressed.

From the evidence presented at the hearing on March 3, 2003, the Court finds that on October 21, 2002, certain officers of the Williamsport Police responded to a dispatch which indicated that an anonymous caller was reporting three black male teenagers on the front porch of 642 Second Street, Williamsport, possibly smoking marijuana. Officer Jason Dockey was the first to arrive and upon his arrival, Officer Dockey observed two black males standing at the bottom of the steps in front of the residence at that address. Officer Dockey detected the odor of marijuana smoke in the general vicinity. Two other officers arrived shortly thereafter, in separate vehicles. Officer Dockey began speaking with the other individual and Officer Ananea began speaking with Defendant. Upon arrival of the third officer, Jody Miller, Officer Miller also began speaking with Defendant. According to the testimony of Officer Miller, when he walked up to Officer Ananea and Defendant, Officer Ananea

indicated that Defendant had given the name Rob Turner and Officer Miller told Defendant he did not think that was his name. Officer Miller asked Defendant where he lived and Defendant indicated he was from Philadelphia. Officer Miller told Defendant they were investigating a report that individuals at that address were smoking marijuana and then asked Defendant for permission to search him. At that point, Defendant pulled some items out of his pockets and put those items into Officer Miller's hands. He then ran away and was later found hiding in a nearby basement. Included in the items placed into Officer Miller's hands was a baggie with crack cocaine in it. The Commonwealth argues the questioning of Defendant and his companion amounted to no more than a mere encounter and therefore reasonable suspicion of criminal activity was not required. The Court does not agree. A stop changes from a mere encounter to an investigatory detention at the point where a reasonable person would have believed he was not free to leave. As in Commonwealth v Martin, 705 A.2d 887 (Pa. Super. 1997), the Court finds the combination of the threatening presence of several officers and their indication to Defendant that he was suspected of criminal activity, as well as their indication that they believed he was giving a false name, leads to the conclusion that a reasonable person would not have believed he was free to leave. The Court therefore determines that Defendant was subject to an investigative detention, and not just a mere encounter.

The Court further concludes, however, that the investigative detention was supported by the requisite reasonable suspicion of criminal activity. While the Court agrees with Defendant that an anonymous tip alone is not sufficient to support an investigative detention, and that police require an independent basis to establish that reasonable suspicion, see Commonwealth v Goodwin, 750 A.2d 795 (Pa. Super. 2000), the Court believes that in the instant case that corroboration was present. Upon approaching the address provided by the anonymous caller, the officers detected the odor of marijuana smoke. The officers were thus reasonable in their suspicion that criminal activity, that is, possession of marijuana, was afoot.

Since the stop was valid, the subsequent discovery of the controlled substances, as well as evidence of Defendant's flight and trespass, need not be suppressed.

ORDER

AND NOW, this day of March, 2003, for the foregoing reasons, Defendant's Motion to Suppress is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA
 PD, Nicole Spring, Esq.
 Gary Weber, Esq.
 Hon. Dudley N. Anderson