

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. 03-10,032
	:	
vs.	:	CRIMINAL DIVISION
	:	
KEITH HALL,	:	
Defendant	:	Motion to Suppress

OPINION AND ORDER

Defendant was charged with Possession With Intent to Deliver a controlled substance, Possession of a controlled substance and Possession of Drug Paraphernalia, after police discovered a controlled substance on his person during the investigation of a reported robbery. In the instant Motion to Suppress, filed May 8, 2003, Defendant contends the detention was not supported by reasonable suspicion, and the search was not supported by probable cause to arrest, and seeks suppression of the evidence seized from his person. A hearing on the motion was held May 23, 2003.

According to the testimony offered by the Commonwealth, earlier in the evening on the date in question a robbery at the Cell Block had been reported and the victim had indicated that a 9 mm firearm had been stolen, and that a black male on a red and white bicycle, as well as an aqua or green Nissan Ultima had been involved. Officer Miller learned of this report and these particulars while working the 6:00 p.m. to 2:00 a.m. shift. As he arrived home at approximately 3:30 a.m. that morning, he saw a vehicle fitting that description parked near his house, and a black male on a red and white bicycle in an alley nearby, and called this information in to County Communications, who then called Agent Leonard Dincher to come in and investigate. Patrol units were dispatched to the scene, and Defendant, the operator of the bicycle, was stopped by the patrol units, and then, upon Agent Dincher's arrival shortly thereafter, questioned by Agent Dincher. According to Agent Dincher's testimony, he told

Defendant he was a police officer, that he was investigating a robbery, one of the suspects in which was a black male on a red and white bike, and asked Defendant his name. After Defendant provided a name (which subsequently turned out to be false), Agent Dincher asked him where he had been at a certain time, and Defendant answered that he had been at the Cell Block. Agent Dincher then asked Defendant if he had any guns, knives, needles or dope on his person and Defendant answered yes, lifted his shirt to reveal a pellet gun in the waistband of his pants, and then handed the gun to Agent Dincher. According to Agent Dincher, the pellet gun looked similar to a 9 mm weapon. Agent Dincher then asked Defendant if he had anything else and when Defendant answered that he did not, Agent Dincher asked him if he would consent to be searched, to which Defendant answered yes. When Agent Dincher searched Defendant, he discovered the drugs in question, as well as a large sum of cash. At that point, Defendant was placed under arrest.

First, the Court finds the officers had a reasonable suspicion, which was sufficient to justify the initial stop of Defendant. Defendant fit the description of a robbery suspect, which description was known to the officers who made the stop, and which description was sufficiently specific, that is, a black male riding a red and white bicycle and in close proximity to a green or aqua Nissan, at a location not too far removed from the location of the robbery.

Second, the Court believes Agent Dincher had probable cause to arrest Defendant at the time he asked for consent to search. In addition to Defendant fitting the description of one of the robbery suspects, he indicated that he had been at the scene of the robbery earlier that evening, and he possessed a weapon similar-looking to the weapon reported stolen. Thus, even if the Court were to consider Defendant to have been, in effect, “under arrest” at the time of the search, the arrest was supported by probable cause.

Inasmuch as the stop and the search were both supported by the requisite factors, Defendant’s contention the evidence seized must be suppressed is without merit.

ORDER

AND NOW, this 23rd day of May, 2003, Defendant's Motion to Suppress is hereby
DENIED.

BY THE COURT,

Dudley N. Anderson, Judge

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