

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. 03-11546
:
vs. : CRIMINAL
:
GEORGE WOODRING, : MOTION TO SUPPRESS
Defendant :

ORDER

AND NOW, this ____ day of July 2004, the Court GRANTS the Defendant's Motion to Suppress. The Courts finds the police did not have sufficient information to reasonably believe the Defendant was armed and dangerous. In order to justify a frisk, the police must be able to point to particular facts from which they reasonably inferred that the individual was armed and dangerous. Commonwealth v. E.M., 558 Pa. 16, 735 A.2d 654, 659 (Pa. 1999). The police did not know either the black male or the Defendant from previous contacts or otherwise. They also did not have any information that either individual was carrying a weapon. They did not see the Defendant reach for a weapon nor did they see any bulges consistent with a weapon on or about the Defendant's person.¹ Therefore, the frisk of the Defendant was unlawful and the evidence was discovered as a result of a forced abandonment.

1 The Court acknowledges Officer Moore testified that the Defendant could've had a razor blade in his right hand; however, the Court finds this testimony does not rise to the level of a reasonable inference that the Defendant was armed and dangerous for several reasons. First, Officer Moore testified that initially the Defendant's right hand was balled up tight, but eventually he partially opened it by extending several fingers. Neither officer testified that they saw a glint of metal or blood drops from the Defendant's hand. The Court believes this shows that it was unlikely that the Defendant had a razor blade in his remaining closed fingers. Second, Officer Hagan testified that he thought the Defendant was holding narcotics in his hand. The Court finds Officer Hagan's testimony on this issue more credible than Officer Moore's.

By The Court,

Kenneth D. Brown, P.J.

cc: Nicole Spring, Esquire
Robert Ferrell, Esquire (ADA)
Work file
Gary Weber, Esquire (Lycoming Reporter)