

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1198-2005  
:   
vs. :   
:   
KASIF DUVAL, : Motion to Suppress  
Defendant :

**ORDER**

AND NOW, this \_\_\_\_ day of October 2005, the Court DENIES Defendant's Motion to Suppress. Officer Jason Bolt stopped the vehicle in which Defendant was a passenger because the vehicle did not have a registration plate. After Officer Bolt stopped the vehicle, he noticed the occupants making furtive movements. When Officer Bolt approached the driver of the vehicle, he noticed an odor of freshly burned marijuana emanating from the vehicle. As he was attempting to identify the driver, Defendant kept interrupting and saying it was his vehicle. Officer Bolt told the occupants, including Defendant that they were the subjects of an official investigation. Defendant told Officer Bolt his name was Andre Simms and gave a date of birth. Officer Bolt had County Communications check this information as well as that of the driver and other occupant. County Communications could not find any individuals with the name and date of birth given by Defendant, the driver and the other occupant. Officer Bolt also ran the vehicle identification number and determined that the vehicle was owned by Dollar Rent-A-Car. Officer Bolt went back to the vehicle and told all three individuals that the information they had given him did not check out. Defendant again asserted that he was Andre Simms. Officer Bolt asked Defendant from whom he got the car. Defendant said he got it from his cousin, but he couldn't give Officer Bolt a name. The

Commonwealth introduced the rental agreement as Commonwealth's Exhibit 1. The rental agreement indicated Jamie Edwards rented the vehicle. No other authorized drivers were listed on the rental agreement.

Officer Bolt called for a K-9 unit. Officer Miller arrived with his drug detection dog. The occupants of the vehicle were ordered from the vehicle asked to consent to a pat down search. They consented, but no weapons or contraband was found at this time. Officer Miller's canine had a positive response on the vehicle. The police impounded the vehicle due to the dog's positive response, as well as the request of the rental company. A search warrant was obtained for the vehicle.

Defendant and the other occupants of the vehicle were transported to City Hall, so they could be positively identified. The police fingerprinted Defendant and the other occupants and ran their fingerprints through AFIS.<sup>1</sup> Shortly after Defendant arrived at City Hall and either before he was fingerprinted or before his true identity was discovered as a result of the fingerprinting, the police strip-searched Defendant pursuant to a policy/procedure of searching individuals suspected of a violent crime or a drug crime. During the search, the police found a plastic bag containing multiple smaller bags of what appeared to be crack cocaine in one of Defendant's orifices. As a result of the fingerprinting, the police discovered Defendant's name was Kasif Duval and there was a bench warrant from Philadelphia for his arrest. Officer Miller testified that Defendant would have been taken to the county prison as a result of the outstanding warrant and everyone taken into the county prison is strip-searched.

Although the Court does not believe the police had sufficient information to

search Defendant pursuant to the police policy (especially since Officer Miller testified on cross-examination that they did not have probable cause to believe Defendant possessed drugs, but only reasonable suspicion), the Court finds the police had probable cause to arrest Defendant for giving false identification and search him incident to that arrest. In the alternative, the police had sufficient information to transport Defendant to City Hall. When the police ran Defendant's fingerprints and discovered his true identity, there was an outstanding warrant from Philadelphia. Pursuant to this warrant, the police would have taken Defendant to the Lycoming County Prison where he would have been searched during routine intake procedures and the cocaine would have been inevitably discovered.

By The Court,

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Kenneth D. Brown, P.J.

cc: G. Scott Gardner, Esquire  
Robert Ferrell, Esq. (ADA)  
Work File  
Gary Weber, Esquire (Lycoming Reporter)