

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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| COMMONWEALTH OF PENNSYLVANIA | : | NO. CR – 331 - 2006 |
| | : | |
| vs. | : | CRIMINAL DIVISION |
| | : | |
| NAAFI LOWE, | : | |
| Defendant | : | Motion to Suppress Evidence |

OPINION AND ORDER

Before the Court is Defendant's Motion to Suppress Evidence, filed May 4, 2006.¹ A hearing on the motion was held May 26, 2006. At the conclusion of the hearing, defense counsel requested and was given until the close of business on May 30, 2006, to provide the Court with authority supporting his position. As of this date, June 1, 2006, nothing has been provided.

Defendant has been charged with possession of marijuana and related offenses in connection with a quantity of marijuana that police found in his jacket pocket on February 6, 2006. Defendant contends the search of the pocket was unlawful, and seeks to suppress the discovery of the marijuana.

At the hearing on May 26, 2006, the Commonwealth presented the testimony of State Police Trooper Franklin Harvey who indicated he had gone to the residence of one Brittany Williams to investigate an incident which occurred there on the previous day. While the trooper was speaking with Ms. Williams, Defendant came down the steps and loudly instructed Ms. Williams to not tell the police anything. Trooper Harvey asked Defendant to leave and he agreed to leave but asked that he be allowed to retrieve his jacket from an upstairs bedroom. Trooper Harvey accompanied Defendant to the bedroom where Defendant pointed out his jacket lying on a bed. Trooper Harvey asked permission to search the jacket for weapons and Defendant consented to such a search. As a consequence, the above-referenced marijuana was found in the pocket of the jacket.

¹ Although the motion was filed to No. CR – 333 – 2006 in error, the Court will address the matter under the correct caption, No. CR – 331 – 2006.

Defendant testified that once upstairs, he pointed out his jacket and then picked it up and that when Trooper Harvey asked him to hand over the coat he did so. Defendant denies that the trooper asked for his consent to a search of the jacket. Defendant also testified he did not know there was marijuana in the pocket, that it wasn't his and that he doesn't know how it got there.

The credibility issue placed before this Court by the conflicting testimony outlined above is resolved in favor of the Commonwealth. As a result, there having been consent to search the jacket, the search cannot be classified as unlawful, and the results of that search need not be suppressed.

ORDER

AND NOW, this 5th day of June 2006, for the foregoing reasons, Defendant's Motion to Suppress Evidence is hereby denied.

BY THE COURT,

Dudley N. Anderson, Judge

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