

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**ANNE SANDERS,
Defendant**

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**CR-0959-2009
CRIMINAL DIVISION**

OPINION AND ORDER

Defendant filed a Motion to Suppress on August 5, 2009. A hearing on the Motion to Suppress was held on February 12, 2010.

Background

The facts of this case reveal that prior to May 20, 2009, Trooper Brett Herbst (Herbst) received information from two confidential informants that the location of 656 4th Ave was the site of heroin transactions. The informants said that they could not buy directly from 656 4th Ave because they needed to purchase through “Miss Anne” and that “Miss Anne” drove a Jeep Cherokee. The confidential informants previously worked with the police and provided information that led to about twenty (20) drug related arrests. The informants assisted in a controlled buy on May 19, 2009 and tried to purchase from 656 4th Ave, but the door of that location was locked. On May 20, 2009, Herbst called the informants to see if they could arrange a drug purchase from 656 4th Ave through the Defendant, but the informants were unavailable.

Herbst then decided to see if he could observe a street level buy of drugs that day. Herbst was on patrol in an unmarked vehicle when he observed two known heroin users in a Jeep Cherokee with the Defendant and another occupant. Herbst then began to follow the vehicle and obtained the registration from the vehicle. The vehicle was registered to Anne Sanders of Wildwood Blvd, Williamsport, PA. Herbst followed the vehicle to Wildwood Blvd where a male passenger exited the vehicle and entered Defendant's residence. Subsequently, the vehicle left Wildwood Blvd and Herbst followed it to the Uni Mart at 6th Ave and High Street, where a white female exited the vehicle and entered the Uni Mart. The female then returned to the vehicle and the vehicle traveled to Wildwood Blvd and High Street. At this time the operator of the vehicle, the Defendant, entered the Wildwood Blvd residence. The Defendant then returned to the vehicle and the vehicle traveled down Wildwood Blvd and then turned east onto Park Ave. The vehicle then turned left onto 5th Ave and stopped just south of Stinson Alley, which runs between 5th and 4th Ave. Herbst then observed the Defendant exit the vehicle and walk east through Stinson Alley. Corporal Ryan Maxwell then saw the Defendant on the front porch of 656 and 654 4th Ave. Corporal Maxwell then witnessed the Defendant exit the residence of 656 4th Ave. Herbst then watched the Defendant get back into the driver's side of the vehicle and drive north on 5th Ave. The vehicle then traveled east on High Street and then turned north onto Hepburn St. The vehicle continued north on Hepburn St until it reached Grampian Blvd. The vehicle then turned east and traveled until it reached the corner of Sherman St and Shaw PL where an unmarked state police vehicle stopped the Jeep Cherokee. The white female, who gave the name of Jennifer Dietrick, was the front seat passenger. Ms. Dietrick was removed from the vehicle and questioned as to whether she had any heroin in her possession. Ms. Dietrick indicated that she had heroin in her wallet, which was located on the front seat of the vehicle. Herbst then looked

into Ms. Dietrick's wallet and observed three white bags similar to bags of heroin he had purchased in the past. The heroin seized from the wallet was field tested and tested positive. The rear passenger was also removed from the vehicle and he gave the name of Joseph Wyland. The Defendant and the other occupants of the vehicle were then taken to the PSP Montoursville barracks for further questioning. The Defendant was read and acknowledged her Miranda Rights. The Defendant verified to Herbst that she was at the residence on 4th Ave purchasing heroin for Dietrick and Wyland. Dietrick and Wyland were also Mirandized and they told Herbst that they had the Defendant get the heroin for them.

Discussion

The Defendant alleges that the officers lacked reasonable suspicion or probable cause to stop her vehicle. Specifically, the Defendant alleges that the evidence failed to support that the residence where the Defendant approached was a known residence that sold heroin or that the passengers were known drug users, and that the stop and removal of each occupant constituted an arrest for which the troopers lacked probable cause. The Defendant contends that the statements of each individual must be suppressed as a fruit of the initial illegality and that all evidence gathered as a result of the stop of her vehicle, and subsequent search of the wallet inside the vehicle, as well as the statements resulting from the stop, should be suppressed pursuant to Article 1, Section 8 of the Pennsylvania Constitution and the Fourth Amendment to the United States Constitution.

“It is well established that contact between the police and the citizenry fall within three general classifications, mere encounter, investigative detention and custodial detention or arrest.”

Commonwealth v. Donaldson, 786 A.2d 279, 281 (Pa. Super. 2001) (see Commonwealth v. Strickler, 757 A.2d 884 (2000)). “While on the one hand a traffic stop is deemed a ‘seizure’ within the realm of search and seizure law, it may constitute only an ‘investigative detention’ for purposes of the three classifications set forth above, thereby requiring only ‘reasonable suspicion’ for its validity.” Donaldson at 282. (see Commonwealth v. Sadvari, 752 A.2d 393 (Pa. 2000)). “While the term ‘reasonable suspicion’ is undoubtedly open to some degree of interpretation, it would seem clear that it was meant to convey a level of suspicion that goes beyond an ‘educated hunch.’” Donaldson at 282. “Where a police officer decides to stop and briefly detain a person in an investigative detention, the suspect's expectation of privacy is only minimally infringed upon; therefore, all that is required is that the officer have a reasonable suspicion that criminal activity is afoot.” Hudach at 264. (citing Commonwealth v. Epps, 608 A.2d 1095, 1096 (Pa. Super. 1992) (See Terry v. Ohio, 88 S. Ct. 1868 (1968)). “For reasonable suspicion to exist a police officer must be able to point to specific and articulable facts and reasonable inferences that can be drawn from those facts in light of that officer's experience.” Hudach at 264. (See Commonwealth v. Cook, 735 A.2d 673, 677 (1999)).

Taken alone, Herbst’s observations of the Defendant might not meet the standard of reasonable suspicion required for an investigative detention. However, Herbst’s observations were corroborated in this case by information received from the confidential informants. Information provided by a confidential informant may provide the police with reasonable suspicion to conduct an investigative detention. Commonwealth v. Griffin 954 A.2d 648, 651 (see Commonwealth v. Gray 503 A.2d 921, 925 (1985) (citing Illinois v. Gates 103 S. Ct. 2317 (1983)). When determining whether such information is enough to meet the standard, the court should use a "totality of the circumstances test." Griffin at 651. “Three factors relevant to the

analysis are: the veracity of the informant, the reliability of the information, and the informant's basis of knowledge.” Griffin at 651. (citing Commonwealth v. Allen, 725 A.2d 737, 740 (1999)). The informants in this case previously worked with the police and provided information that led to about twenty (20) drug related arrests. The fact that the information came from known informants and not from an anonymous tip adds to the reliability of the informant’s information. Griffin at 651. (see Commonwealth v. Jackson, 698 A.2d 571, 573-574 (1997)).

The facts of the Griffin case are similar to the facts of this case. In Griffin, a confidential informant provided an officer with detailed information about a known cocaine dealer. Id. at 649. The informant further provided the officer with information that the cocaine dealer would leave his house at a specific time to go cook cocaine. Id. at 650. Following the informant’s information, the officer proceeded to track down the alleged cocaine dealer. Id. The officer observed the alleged dealer retrieve a plastic bag from his garage, travel to and enter a residence, then leave the residence a little over an hour later. Id. After observing these actions, the officer decided to stop the alleged dealer. Id. The Griffin Court reasoned that “given the totality of the circumstances of the instant case, the confidential informant provided Officer Coolen with an articulable reason to investigate the Defendant, which after the officer's corroborating observations, led to reasonable suspicion for the stop.” Id. at 654. Like the officer in Griffin, Herbst received detailed information concerning the Defendant and her connection to drug transactions. Although Herbst did not receive information about the specific drug transaction on May 20, 2009, the Court believes that, given the totality of the circumstances, Herbst had reasonable suspicion to stop the Defendant in this case. Therefore, the Defendant’s Motion to Suppress is denied.

ORDER

AND NOW, this ____day of April, 2010, based upon the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant's Motion to Suppress is hereby DENIED.

By the Court,

Nancy L. Butts, P.J.

xc: DA
Nicole Spring, Esq.
Amanda Browning, Esq. (Law Clerk)
Gary L. Weber (LLA)