

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-2094-2014
v.	:	
	:	
BILAL ANDREW BLACKWELL,	:	CRIMINAL DIVISION
Defendant	:	

OPINION AND ORDER

On May 22, 2015, the Defendant filed a Motion to Suppress Nunc Pro Tunc. A hearing on the motion was held on September 24, 2015.

I. Background

A. Officer Justin Snyder's Testimony

Justin Snyder (Snyder) has been a police officer since 2006. He is currently an officer with the Williamsport Bureau of Police and is specially assigned to the Lycoming County Narcotics Enforcement Unit (NEU). Snyder has recently experienced a big surge in finding guns while executing search warrants in drug investigations. He has found several firearms during drug investigations.

Shortly after 1:00 p.m. on November 25, 2014, Snyder was contacted by Al Diaz, supervisor of the NEU. Diaz asked Snyder to come to the area by the Marriott hotel in Williamsport. He told Snyder that a man wearing an orange hoodie and camo pants had been involved in a drug transaction. Snyder arrived at the Marriott and set up surveillance. At 1:40 p.m., Snyder saw a man exit the Marriott. The man was wearing an orange hoodie and camo pants. The man was on a cell phone and was looking around. The man eventually "made contact" with another person and then returned to the Marriott.

Snyder went to room 308 of the Marriott as part of a companion investigation of the individual who was renting the room. Once inside the room, he saw crack cocaine in Ziploc baggies. In Snyder's experience, cocaine in baggies is an indication of a drug operation. Snyder and Detective Keller were tasked with securing room 308 until a search warrant was obtained. They were in the room to make sure nobody took anything out of it. There was nothing outside of the room to indicate their presence in the room.

A person knocked on the door to room 308 while Snyder and Keller were inside. Snyder heard the person using a key to try to get into the room. Snyder looked out of the room and saw the Defendant, who was wearing an orange hoodie and camo sweatpants. Snyder then opened the door, told the Defendant he was a police officer, and showed the Defendant his badge. The Defendant was startled and surprised when he saw Snyder. The Defendant and Snyder had "a little bit of interaction," and, during this interaction, the Defendant was looking around. Snyder believed the Defendant was looking for a point of egress from the room. Snyder could see the Defendant's hands. He told the Defendant that he was going to pat him down. The Defendant "gave a reaction that he did not want to be patted down." Snyder and the Defendant stepped out of room 308, and Snyder placed the Defendant against the wall. During the pat-down, Snyder discovered drugs. Snyder then obtained the Defendant's identification and "ran the Defendant for warrants." Snyder discovered that the Defendant was wanted for absconding from parole.

B. Arguments

The Defendant argues that Officer Snyder lacked reasonable suspicion to conduct a pat-down. He contends that police do not reasonably suspect drug activity when they simply observe a person walking out of a hotel and talking on a cell phone. In addition, the Defendant argues that even if there was reasonable suspicion of drug activity, there was not reasonable suspicion to

conduct a pat-down because Commonwealth v. Grahame¹ invalidated the presumption that guns follow drugs. The Defendant also contends that a police officer does not have reasonable suspicion for a pat-down when he simply observes that someone is startled and trying to leave the area.

The Commonwealth argues that Snyder's belief that the Defendant was dealing drugs is just one circumstance in the totality of the circumstances that lead to the pat-down. It contends that Snyder had reasonable suspicion for the pat-down because the Defendant was involved in two drug deals, there were drugs in room 308, the Defendant has access to 308, and the Defendant wanted to leave the room. In addition, the Commonwealth argues that the drugs discovered during the pat-down inevitably would have been discovered because Snyder intended to identify the Defendant and "run" his information, which revealed that the Defendant was wanted. The Defendant counters that Snyder would not have run his information if he had been allowed to leave.

II. Discussion

"To be constitutionally valid, a warrantless arrest must, of course, be supported by probable cause." Commonwealth v. Evans, 685 A.2d 535, 537 (Pa. 1996). "Probable cause to arrest exists when the facts and circumstances within the police officer's knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that an offense has been committed by the person to be arrested. Probable cause justifying a warrantless arrest is determined by the totality of the circumstances. Furthermore, probable cause does not involve certainties, but rather the factual and practical considerations of everyday life on which reasonable and prudent [persons] act."

¹ 7 A.3d 810 (Pa. 2010).

Commonwealth v. Williams, 941 A.2d 14, 27 (Pa. Super. 2008) (citations and quotation marks omitted). “It is only the probability, and not a prima facie showing, of criminal activity that is the standard of probable cause.” Commonwealth v. Kloch, 327 A.2d 375, 385 (Pa. Super. 1974).

“Every commercial transaction between citizens on a street corner when unidentified property is involved does not give rise to probable cause for an arrest.” Commonwealth v. Banks, 658 A.2d 752, 753 (Pa. 1995). “[A]ll of the circumstances surrounding a transaction between citizens are to be considered in determining whether law enforcement officers have acted arbitrarily or have acted on the basis of probable cause.” Commonwealth v. Lawson, 309 A.2d 391, 394 (Pa. 1973).

Here, when Officer Snyder began the pat-down, he possessed knowledge of facts and circumstances which were sufficient to warrant a person of reasonable caution in the belief that the Defendant had sold drugs. Diaz told Snyder that a man wearing an orange hoodie and camo pants had been involved in a transaction. At 1:40 p.m., Snyder saw a man in an orange hoodie and camo pants exit the Marriot hotel. The man was on his cell phone and looking around. The man “made contact” with another person and then returned to the Marriott. In room 308 of the Marriott, Snyder saw crack cocaine in baggies. A person knocked on 308’s door and used a key to try to get into the room. Snyder looked out of the room and saw the Defendant, who was wearing an orange hoodie and camo pants. The Defendant was looking around during his interaction with Snyder. The above facts and circumstances provided Snyder with probable cause to arrest the Defendant.

“It is well established that a warrantless search incident to a lawful arrest is reasonable, and no justification other than that required for the arrest itself is necessary to conduct such a

search.” Commonwealth v. Ingram, 814 A.2d 264, 272 (Pa. Super. 2002). Here, the pat-down was lawful since Snyder could have searched the Defendant.

III. Conclusion

When Officer Snyder began the pat-down, he had probable cause to arrest the Defendant. Since Snyder could have searched the Defendant, the pat-down was lawful.

ORDER

AND NOW, this _____ day of November, 2015, 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, President Judge