

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CP-41-CR-598-2017**  
v. :  
 :  
**QUODRICE HENDRIX,** : **MOTION TO SUPPRESS**  
**Defendant** :

**OPINION AND ORDER**

Quodrice Hendrix (Defendant) was arrested on March 26, 2017 on one count of Firearms Not to be Carried without a License,<sup>1</sup> one count of Flight to Avoid Apprehension, Trial, or Punishment,<sup>2</sup> one count of Resisting Arrest,<sup>3</sup> one count of Disorderly Conduct,<sup>4</sup> one count of Possession of a Controlled Substance,<sup>5</sup> and one count of Possession of Drug Paraphernalia.<sup>6</sup> The charges arise from police conducting an encounter with Defendant in the 600 block of 6<sup>th</sup> Ave., Williamsport, PA 17701. Defendant filed this Motion to Suppress Nunc Pro Tunc on September 25, 2018. A hearing on the motion was held by this Court on December 18, 2018.

In his Motion, Defendant challenges whether the police had reasonable suspicion to initially seize Defendant and conduct an investigatory detention. Defendant contends as a result of his unlawful initial seizure and subsequent illegal arrest any evidence obtained as a basis of the search of his person should be suppressed.

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<sup>1</sup> 18 Pa. C.S. § 6106.

<sup>2</sup> 18 Pa. C.S. § 5126(a).

<sup>3</sup> 18 Pa. C.S. § 5104(a).

<sup>4</sup> 18 Pa. C.S. § 5503(a)(4).

<sup>5</sup> 35 P.S. § 780-113(a)(16).

<sup>6</sup> 35 P.S. § 780-113(a)(32).

## **Background and Testimony**

Officers Clinton Gardner (Gardner) of the Williamsport Bureau of Police testified on behalf of the Commonwealth. His testimony established the following. On March 26, 2017, Gardner was operating a marked patrol vehicle in full uniform, when he observed Defendant's vehicle. Gardner had a prior encounter with Defendant and did not get a valid, usable address to serve him with notice of his prior offense. When Defendant parked so did Gardner without turning on his lights or pulling him over. Gardner approached Defendant and asked "how are you doing Quodrice?" to which he responded "I'm not Quodrice." He stated this a few times before Gardner stated that he was under investigation and was being detained. Officer Badger arrived at the scene to assist, while Defendant continued refusing to give his address. As Gardner made a call to Corporal Derr, Defendant attempted to walk away and enter a residence. At the door jamb he struggled with officers and was continually reaching for his waistband. Finally, Defendant was handcuffed and patted down, which yielded a firearm in his right pant's leg. Officers upon arresting Defendant conducted a search of his person finding a small amount of marijuana and packets of K2 (synthetic cannabinoids), which field tested as such, and a small amount of cash.

## **Whether Gardner had Reasonable Suspicion for an Investigatory Detention**

Defendant alleges that he was detained by the police in violation of his constitutional rights, therefore any evidence seized by the police should be suppressed. There are three categories when dealing with interactions between citizens and the police:

The first is a "mere encounter" (or request for information) which need not be supported by any level of suspicions, but carries no official compulsion to stop or respond. The second, an "investigative detention," must be supported by a reasonable suspicion; it subjects a suspect to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of an arrest. Finally, an arrest or "custodial detention" must be supported by probable cause.

*Commonwealth v. Gutierrez*, 36 A.3d 1104, 1107 (Pa. Super. 2012).

The Pennsylvania Supreme Court has adopted the United States Supreme Court's holding in *Terry v. Ohio*, 392 U.S. 1 (1968), permitting police to effectuate a precautionary seizure when there is reasonable suspicion criminal activity is afoot. *Commonwealth v. Matos*, 672 A.2d 769, 773-74 (Pa. 1996) (citing *Commonwealth v. Hicks*, 253 A.2d 276 (Pa. 1969)). The Court views a totality of the circumstances to determine whether "a reasonable person would believe that he was not free to leave." *Commonwealth v. Collins*, 672 A.2d 826, 829 (Pa. Super. 1996). "[I]n determining whether the officer acted reasonably in such circumstances, due weight must be given, not to his inchoate and unparticularized suspicion or 'hunch,' but to the specific reasonable inferences he is entitled to draw from the facts in light of his experience." *Commonwealth v. Cook*, 735 A.2d 673, 676 (Pa. 1999) (quoting *Terry*, 392 U.S. at 27). Case law has established certain facts alone do not create reasonable suspicion, but a totality of the circumstances may create it. *See Commonwealth v. DeWitt*, 608 A.2d 1030 (Pa. 1992) (flight alone does not establish reasonable suspicion); *Commonwealth v. Kearney*, 601 A.2d 346 (Pa. Super. 1992) (mere presence in a high crime area alone does not create reasonable suspicion).

It is well settled that police may conduct a mere encounter in an attempt to obtain additional information from an individual, which requires no level of suspicion. *Commonwealth v. Jones*, 378 A.2d 835, 840 (Pa. 1977). Gardner was well within the scope of his duties to approach Defendant and inquire about his present address. But, when Defendant twice stated he was not "Quodrice" and Gardner stated he was detained and under official police investigation, the situation escalated beyond a permissible mere encounter. There is no doubt that at this point Defendant was subject to an investigatory detention, which requires

reasonable suspicion of a present violation of the law or that criminal activity is afoot. *Commonwealth v. Barnes*, 14 A.3d 128, 132 (Pa. Super. 2011). The Commonwealth contends Gardner's need to obtain Defendant's present address is enough, but this information can be acquired through other investigative means and there is no statute or case law that gives officers present reasonable suspicion to conduct an investigatory detention, based on follow-up of a past incident. For the detention to be legal there must be **present** reasonable suspicion of a legal violation or that criminal activity is afoot. Defendant stating that he was not Quodrice also does not satisfy this requirement. *See id.* (“[I]f appellee was not yet under official investigation for a violation of law when asked for his name and DOB, the provision of false information was not a violation of law. Thus, that failure to provide true information cannot constitute the basis for the official investigation of a violation of law.”). Additionally fleeing and/or resisting arrest cannot satisfy the requirement after the fact when there is no probable cause for the underlying detainment/arrest. *See Commonwealth v. Hock*, 728 A.2d 943, 946 (Pa. 1999) (“Thus, a valid charge of resisting arrest requires an underlying lawful arrest, which, in turn, requires that the arresting officer possess probable cause.”). Therefore the Commonwealth has not established the requisite reasonable suspicion for investigatory detention, let alone the probable cause for an arrest pursuant to resisting and/or fleeing an arrest and nothing beyond a mere encounter was permissible.

### **Conclusion**

The Court finds Gardner did not act with the requisite reasonable suspicion of a present legal violation or that criminal activity was afoot for an investigatory detention. Therefore, Defendant's constitutional rights were violated and the evidence subsequently discovered shall be suppressed.

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of December, 2018, based upon the foregoing Opinion, the Defendant's Motion to Suppress Nunc Pro Tunc is GRANTED. It is hereby ordered and directed that any evidence obtained as a result of the initial seizure or subsequent illegal arrest is SUPPRESSED.

By the Court,

Nancy L. Butts, President Judge

cc: Neil Devlin, Esquire, ADA  
Nicole Spring, Esquire