

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

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>CP-41-CR-1900-2017</b>
<b>v.</b>	:	
	:	
<b>JASON SAMMOND,</b>	:	<b>OMNIBUS PRETRIAL</b>
<b>Defendant</b>	:	<b>MOTION</b>

**OPINION AND ORDER**

Jason Sammond (Defendant) was arrested on October 30, 2017 on two counts of Possession of a Controlled Substance with the Intent to Manufacture or Deliver,<sup>1</sup> one count of Possession of a Controlled Substance,<sup>2</sup> and one count of Possession of Drug Paraphernalia.<sup>3</sup> The charges arise from police witnessing an alleged hand-to-hand narcotics transaction between Defendant and another male at the 700 block of Hepburn St., Williamsport, PA 17701. Defendant filed this timely Omnibus Pretrial Motion on July 30, 2018. A hearing on the motion was held by this Court on September 17, 2018.

In his Omnibus 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 any evidence obtained as a basis of the search of his person should be suppressed. In addition, Defendant Petitions for Writ of Habeas Corpus stating because the evidence must be suppressed, the officers did not have enough evidence to establish a *prima facie* case of probable cause to effectuate an arrest.

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<sup>1</sup> 35 P.S. §780-113(a)(30).

<sup>2</sup> 35 P.S. §780-113(a)(16).

<sup>3</sup> 35 P.S. §780-113(a)(32).

## **Background and Testimony**

Officers Tyson Minier (Minier) and Joshua Bell (Bell) of the Williamsport Borough police testified on behalf of the Commonwealth. Their testimony established the following. On October 30, 2017, Minier and Bell were operating an unmarked patrol vehicle, in an area known for heavy narcotics activity. They were parked when they witnessed Defendant come out from Harris Place and meet up with a male on Hepburn St. The two began to walk down the street together. Both Defendant and other male were known to Bell through multiple other narcotics busts he had conducted and they had been a part of. Defendant then with his hand cupped, as if he was holding something, reached into the males front hooded pocket. Both Bell and Minier at this point through their training and experience believed that they had witnessed a narcotics transaction. They then turned on their lights and approached in their vehicle. Defendant was leaning down towards the ground prior to complying with orders. Bell observed four bags of suspected heroin at his feet. Defendant and the male where then arrested after the male stated he had provided Defendant with \$40 for Defendant to purchase him heroin.

## **Whether Bell and Minier 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).

In *Cook*, officer were patrolling a high crime area, when they noticed the defendant reaching out with a fist attempting to give another individual something and that individual reaching back to grab it. *Cook*, 735 A.2d at 674. The officers then decided to turn around and investigate. *Id.* When they did, the individual took his hand back before starting to back away. *Id.* He then sprinted away from the cops and threw a baggie of drugs into a yard while fleeing. *Id.* There the court found the officers had reasonable suspicion to conduct the stop based on the totality of the circumstances. *Id.* at 678.

The facts here are very similar to those in *Cook*. When viewing the totality of the circumstances, officers had reasonable suspicion to conduct an investigatory detention. As in *Cook*, Bell and Minier were on patrol in a high narcotics activity area. They spotted two individuals, which Bell had known from two or three prior narcotics busts. During those busts, Defendant would attempt to buy drugs for and give drugs to the male. Officers then witnessed Defendant with a cupped hand, as if he was holding something, reach into the male's front pocket of his hooded sweatshirt. This is a very uncomfortable and uncommon action, which in the officers' training and experience lent them to believe they had just witnessed a narcotics transaction. It was at this time they made a proper determination to approach and investigate. Within seconds of getting out of the vehicle Bell noticed suspected heroin at the feet of Defendant. Officers had reasonable suspicion as in *Cook* to approach Defendant and the male and then upon spotting the suspected heroin had probable cause to properly effectuate an arrest.

### **Conclusion**

The Court finds officers acted with requisite reasonable suspicion for an investigatory detention. Therefore, there is no violation of Defendant's constitutional rights and the evidence resulting shall not be suppressed. Likewise, since the evidence will be not be suppressed Defendant's Petition for Writ of Habeas Corpus is moot.

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of October, 2018, based upon the foregoing Opinion, the Defendant's Omnibus Pretrial Motion is DENIED.

By the Court,

Nancy L. Butts, President Judge

cc: Nicole Ippolito, Esquire, ADA  
Matthew Welickovitch, Esquire