

The Arrest

On November 30th, at about 1:15am--1:45am, I was walking down the street minding my own business and talking with several people in the area, when I noticed that I was being stalked by a patrolling police officer in a marked car. I avoided any contact with this officer, due to my previous brushes with the law, but I spotted him watching me on three occasions in a 30 minute span of time. I wasn't doing anything illegal, but as I attempted to leave the area, this police officer rapidly cut off my pathway, jumped out of his car, grabbed me, demands identification, frisked me, took my back pack, locked me in the back seat of his car, then searched my back pack for my identification, and eventually handcuffed and arrested me.

At Trial

At trial, the officer testified that he was acquainted with most of the people who hung out in the vicinity; that it was a high crime area; a burglary had been reported; that the defendant was not familiar to him; he saw defendant three times with a back pack on his back with something sticking out of it; that each time he approached defendant in the police car he walked away; and that he did not see the defendant doing anything illegal. When he saw an opportunity, he stopped the defendant, asked for identification, took defendant's back pack, frisked him, placed him inside his patrol car, called for back up, searched back pack for identification, handcuffed defendant for trying to exit patrol car, ran the identification check and discovered bench warrants, then formally arrested the defendant.

The trial judge issued an opinion that the officer's stop was proper, that he had a right to frisk defendant for his safety and to look into the back pack for identification. The judge also ruled that the defendant was arrested when he was placed in the car but was of no moment in light of the fact that no search took place until after probable cause to arrest had been established.

Date: 4/9/12

page 2

Direct Appeal: Supreme Court Opinions

On review by the Pa. Supreme Court, the court ruled that no illegal stop, arrest or search occurred. The high incidence of crime in the area and the reported burglary yielded a reasonable conclusion that crime was afoot. The suspicious nature of appellant's behavior and the appearance of the knapsack gave the officer reasonable cause to believe that appellant might be connected to crime. The remaining actions during the Terry stop constituted permissible preservation of the status quo while the officer confirmed or dissipated his suspicions. The preservation of the status quo occurred: while the officer retrieved the identification from the knapsack to confirm the identity of appellant; by placing appellant in the police car during this nighttime street encounter in a high-crime area while his identification was checked; and when appellant was handcuffed after he tried to escape before the check on identification was completed.

The state Supreme Court was split in this decision. the majority ruled that evidence seized from a suspect did not have to be suppressed since it was not taken while the person was under an illegal arrest, even though he had been forced into a police car while the officer investigated his identity. The dissenting Judges insisted that an unlawful arrest had taken place and that there is no right to hold a person while looking into that person's identity.

The majority's decision handed down a ruling that extends police freedom of action under the investigative stop doctrine and narrows the court's understanding of the term "arrest" in criminal procedure.

Case Law

A police officer may stop and question a person for investigative purposes. Terry v. Ohio, 392 U.S. 1 (1968). This investigative detention must be supported by reasonable suspicion that crime is afoot. id. This detention subjects the suspect to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of arrest. Berkeimer v. McCarty, 468 U.S. 420 (1984).

Date: 4/9/12

Page 3

Probable cause to arrest exists where the facts and circumstances within the police officer's knowledge, and of which he has reasonably trustworthy information, are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been committed by the person to be arrested. Beck v. Ohio, 370 U.S. 89 (1964); Com. v. powers, 398 A.2d 1013 (1979). An arrest has been defined as an act that indicates an intention to take a person into custody or that subjects him to the will and control of the person making the arrest. Com. v. Lovette, 498 Pa. 665 (1982).

Dissenting Opinion--Supreme Court

The dissenting opinion stated that they disagree with the majority's conclusion that when appellant was placed in the officer's car, he was not illegally arrested. Since the dissenting judges found that appellant was arrested and that the arresting officer did not have probable cause, they believe the trial court erred in denying appellant's motion to suppress.

The officer was justified in stopping appellant based upon a reasonable suspicion that crime was afoot. The officer properly asked appellant for identification. In addition, the officer lawfully frisked appellant to dispel a concern for his safety. When the appellant was then placed in the patrol car and handcuffed, he was under arrest. Appellant was taken into the officer's custody and subjected to his will and control.

Since an arrest occurred, probable cause was required. However, when appellant was placed inside the car, he was not engaged in any act that would cause a person of reasonable caution to believe that he committed a crime. The report of a burglary and the officer's belief that appellant looked suspicious did not justify arresting appellant. While appellant could have been lawfully arrested after the officer learned that he had outstanding bench warrants, the officer was not free to detain appellant while he investigated his identity. Once appellant produced identification, he was free to go.

The trial court also found that appellant was arrested

Date: 4/9/12

Page 4

when he was placed in the car, but found this fact of no moment because no search took place until after probable cause to arrest had been established based upon the discovery of the bench warrants. The trial court improperly justified the subsequent search based upon probable cause obtained during an illegal arrest. The trial court erred in denying appellant's motion to suppress.

I'm posting this info about my case because you need to know about how this system we live under works. It's broken! You can hardly see the justice in it. They don't care if you're innocent or guilty, they just want a conviction and to make it stick for as long as they're in office. I wonder if the judges who are supposed to review our cases even actually review the whole record for themselves. For as long as it takes for them to hand down their ruling, you would think they did. But upon reading most of the opinions I've received in this State, I can't see how. The trial judge ignored the fact that the officer looked into the back pack for my identification during the stop. By all definitions, that look into the back was a search, which occurred after I was placed in the car. Also, there was only the officer's testimony that there was a burglary report. No record was entered into evidence to confirm this. This burglary report was a factor both courts relied on to justify the investigative stop. Therefore, the courts' reasonings are flawed. the moment of this farce is when the Supreme Court circumvented established law on what constitutes an "arrest" just to affirm my conviction. Such disregard for truth, justice, and human life.