

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
 :
 v. : CRIMINAL ACTION
 :
 JAMAR CAMPBELL : NO. 05-440-06
 :

SURRICK, J.

JANUARY 30, 2008

MEMORANDUM & ORDER

Presently before the Court is Defendant Jamar Campbell's Motion to Suppress Physical Evidence Seized and Post-Arrest Statement (Doc. No. 446). A Suppression Hearing was held on August 20, 2007. For the following reasons, Defendant's Motion will be denied.

I. BACKGROUND

At approximately 11:00 A.M. on the morning of May 16, 2005, Detective John Newell, a Detective with the Newtown Township Police Department assigned to the Delaware County Drug Task Force, received a tip from a confidential informant about a large drug transaction that was scheduled to take place late that afternoon in the parking lot of a small apartment complex on Bethel Road in Delaware County. (Suppression Hr'g Tr. 11, Aug. 20, 2007.) Detective Newell had received a tip from the confidential informant once before and found the informant to be reliable. (*Id.* at 12.) On this occasion, the informant told Detective Newell that the sale would be conducted by a black man named Jamar Campbell who was about six feet tall with a thin to average build. (*Id.*) The informant also said that Jamar would be driving a gold Buick with tinted glass and gave the license plate number of the car. (*Id.*) Detective Newell checked the license number and it came back as registered to Defendant Jamar Campbell. (*Id.*)

At approximately 4:00 P.M., Detective Newell and other members of the Delaware County Drug Task Force set up surveillance in the area where the transaction was to take place. (*Id.* at 13.) At 4:30 p.m., as the informant had indicated, a gold Buick with tinted windows pulled into the parking lot at the apartment complex and backed into a parking space. (*Id.* at 14.) After a few minutes Defendant Jamar Campbell exited the car. (*Id.*) Defendant matched the physical description given by the informant. (*Id.* at 14-15.) Defendant walked around to the trunk of the car and spent a few minutes with the lid of the trunk up. (*Id.* at 15.) The police officers could not see what Defendant was doing in the trunk. (*Id.*) Defendant then got back into the driver's seat and sat there for several minutes. (*Id.*) Defendant then pulled the car into a side street directly across from the apartment complex. (*Id.*) He parked the car on the shoulder of the side street, facing the flow of traffic, and remained in the car. (*Id.* at 16, 34.)

The police officers decided to approach the car to further investigate. (*Id.* at 34.) One police car pulled in front of Defendant's car and another pulled behind it. (*Id.* at 16.) Detective Newell, wearing a shirt with "Police" printed on it, and the other officers stepped out of their cars holding their badges out. (*Id.*) Defendant exited from the driver's side of his vehicle and reached into his waistband for a gun. (*Id.*) Defendant started to point the gun at the officers. (*Id.*) The police officers immediately began to shout at Defendant, "Police; drop the gun." (*Id.* at 17.) Defendant then complied. (*Id.*) At that time, the police approached Defendant and detained him. (*Id.*) The officers searched the interior of Defendant's car and found approximately five ounces of cocaine in the console. (*Id.* at 17, 37.)

After Defendant arrived at the police station, Detectives Newell and Frye advised him of his *Miranda* rights. (*Id.* at 41-42.) Defendant waived his rights and gave a statement saying he

had received a phone call from someone to pick something up and drop it off and that he usually doesn't get involved in the "stuff" in the car. (*Id.* at 19.)

II. LEGAL ANALYSIS

Defendant seeks to suppress all physical evidence seized from him on May 16, 2005. Defendant argues that his arrest and the search of his car were conducted without a warrant or sufficient reasonable suspicion or probable cause, in violation of his Fourth Amendment rights. He also seeks suppression of his statement to the police and of contraband subsequently found in an inventory of his car.

"Whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person and the Fourth Amendment requires that the seizure be reasonable." *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975) (citing *Terry v. Ohio*, 392 U.S. 1, 16 (1968)). Nevertheless, the Supreme Court has recognized that it is reasonable for a police officer "in appropriate circumstances and in an appropriate manner [to] approach a person for purposes of investigating possible criminal behavior even though there is no probable cause to make an arrest." *Id.* at 22; *see also Brignoni-Ponce*, 422 U.S. at 881 (noting *Terry* extends to any reasonable suspicion of criminal activity). In this case, we are satisfied that the police had reasonable suspicion to believe that Defendant was engaged in criminal activity based on the tip given to them by the reliable confidential informant, and based upon their surveillance.

The reasonable suspicion required by *Terry* for an investigative stop can arise from less information than is needed for probable cause. *Alabama v. White*, 496 U.S. 325, 330 (1990). This includes a tip from an informant, provided the tip has the indicia of reliability. *Id.* at 332 (noting that when "significant aspects of the caller's predictions were verified, there was reason

to believe not only that the caller was honest but also that he was well informed”). Here, Detective Newell received information from a known informant that Defendant was going to participate in a drug transaction that afternoon. The informant had previously provided information that proved to be reliable. In addition, the informant provided details about the transaction scheduled to occur which were corroborated by the police surveillance. The make of the car, the color of the car, the license number of the car, the ownership of the car, the time and place of arrival, and the description of Defendant were all accurate. Defendant’s unusual behavior added to Detective Newell’s suspicion. Based upon his experience, Detective Newell believed that Defendant was there to participate in a drug deal. (Hr’g Tr. 18.) Clearly, the police had reasonable suspicion to conduct a *Terry* stop and investigate further.

A warrantless arrest by a police officer is considered reasonable under the Fourth Amendment when there is probable cause to believe that a criminal offense has been or is being committed. *Devenpeck v. Alford*, 543 U.S. 146, 152 (2004). A determination as to whether probable cause exists looks at the events leading up to the arrest and then asks whether these facts, when seen from the viewpoint of an objectively reasonable police officer, amount to probable cause. *Maryland v. Pringle*, 540 U.S. 366, 371 (2003). In this matter, once the police conducted the *Terry* stop by blocking Defendant’s car, Defendant jumped out of the car and reached for a gun in his waistband and started to point the gun at the officers. The arrest of Defendant under these circumstances was certainly based upon probable cause.

After Defendant was arrested, the police were permitted to search the passenger area of his car, including the console pursuant to *Michigan v. Long*, 463 U.S. 1032, 1049 (1983), and *United States v. Belton*, 453 U.S. 454, 460 (1981). “[W]hen a policeman has made a lawful

custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile.” *Belton*, 453 U.S. at 460. The Court in *Belton* went on to note that this includes any containers found within the passenger compartment that may have been within the arrestee’s reach. *Id.* Therefore, the cocaine seized from the console in Defendant’s car, was properly seized. Defendant’s rights were not violated.

After his arrest, Defendant’s car was impounded and an inventory search of the vehicle was conducted. Routine inventories of impounded vehicles are completely permissible whether for the protection of the owner’s property while in police custody, to insure against claims of lost or stolen property, or to protect the police from danger. *Florida v. Wells*, 495 U.S. 1, 4 (1990). The Government has suggested, and Defendant has not contested, that the inventory performed on the car was completely routine.¹ The evidence seized as a result of the inventory search is also admissible.

In addition, although it was ultimately determined that Defendant was licensed to carry the gun, carrying a firearm with the intent to employ it criminally is a violation of 18 Pa. C.S. § 907. Assaulting a police officer with a gun is also a violation of 18 Pa C.S.A. § 2702. Under the circumstances, the gun was properly seized.

The statement made by Defendant following his arrest is also admissible. Defendant was properly given his *Miranda* warnings before making any statement. He waived his rights under

¹ Defendant does not contest the validity of the inventory search but argues only that since his stop and arrest was illegal, “what was seized and everything thereafter must fall.” (Hr’g Tr. at 56.) We have determined that Defendant’s arrest was legal. Therefore, drugs found during the course of the inventory search were legally seized. As a result of the inventory search, fireman’s pants and fireman’s boots were seized. Cocaine was found in the lining of the pants and the lining of the boots.

Miranda. Defendant has argued that the statement he made to the police following his arrest should be suppressed as fruit of the poisonous tree following an illegal arrest. The arrest here was proper. Defendant's statements following the *Miranda* warnings is admissible as well.

III. CONCLUSION

For these reasons, Defendant's Motion To Suppress Physical Evidence and Post-Arrest Statement will be denied.

An appropriate Order follows.

