



team consisted of one car of Officers Lacorte, Wiley, and Luca. Another backup car consisted of Sargent Wilson, Officer Ghee and Officer Bonett.

Officer Allen watched two men standing on the corner of Bloyd and Cheltenham Avenue for about fifteen minutes. Officer Allen did not observe any illegal activity. At around 8:40 p.m., the defendant, Latwan Cooper, pulled up in a dark colored Lexus to the corner of Bloyd and Cheltenham Avenue. Mr. Cooper's car was on the other side of the street from the entrance to Bloyd Street which does not go through Cheltenham Avenue, facing west. The defendant walked over to the two men standing on the corner and chatted with them for approximately five minutes. The defendant was wearing blue jeans and a long white t-shirt that was out of his pants over his jeans.

During the fifteen minutes or so that Officer Allen was surveilling the corner of Bloyd and Cheltenham before the defendant arrived, Officers Lacorte, Luca and Wiley were parked in a church parking lot on Sprague Street. When the defendant arrived, Officer Allen broadcast over his walkie-talkie that someone had just gotten out of a black Lexus and crossed the street to talk to the two men whom he had under surveillance. At that point, the three backup officers drove their car closer to the surveillance location. They parked about one block east of the

corner of Bloyd and Chelton Avenue on Chelton Avenue, facing west.

Shortly thereafter, Officer Allen saw the defendant lift his shirt. When he did so, Officer Allen saw a chrome/silver handgun in his front waistband. Officer Allen immediately told the officers over the walkie-talkie that he observed the gun and that the defendant crossed back into the Lexus. Officers Lacorte and Wiley then saw the back tail lights of the Lexus go on. The Lexus then continued west on Chelton Avenue toward Chew Street and made a right.

Officers Lacorte, Wiley and Luca followed the defendant's car with the intent to stop it. However, a bus interfered with their stopping of the car and the defendant made a right onto Chew Street. The police followed and stopped the car by pulling in front of it in the area of Chew and Walnut Streets. Officer Lacorte jumped out of the unmarked police car with his weapon drawn and approached the driver's side. He removed the defendant from the car and immediately went to his waistband where he recovered a semiautomatic handgun. Officer Lacorte asked Mr. Cooper whether he had a permit to carry the gun and the defendant said he did not. Officer Lacorte handed over the defendant to Officer Luca for handcuffing. Officer Lacorte put the weapon he took out of the defendant's waistband in the rear of his own waistband. Officer Wiley then looked inside the

car and saw a clear baggy containing off-white chunks on the floor of the driver's side of the car. He recognized the chunks to be crack cocaine.

In making these findings of fact, the Court rejects the version of events to which the defendant testified. Mr. Cooper admitted that the gun and drugs were his, but said that they were in the glove compartment of the car, not on his person (the gun) and on the floor of the driver's side of the car (the drugs).

He also disputed Officer Allen's testimony that he, the defendant, got out of the Lexus to talk to the two people on the corner. The defendant said that one of the two people, Kente Alexander, walked over to the Lexus and got inside. The defendant and Mr. Alexander talked for a few minutes before Mr. Alexander returned to the corner.

Under the defendant's version of events, the police would not have had probable cause or reasonable suspicion to stop the car and force the defendant out of the car.

The Court did not find the defendant's testimony credible for the following reasons. In order to find the defendant credible, the Court would have to conclude that four police officers fabricated a detailed story with no apparent motive to do so. There has been no suggestion that the police knew Mr. Cooper prior to the date of the incident or that there is any other reason for them to lie about the situation. As a

couple of the officers testified, they have made hundreds of arrests in that area which is a high drug area. If the police wanted to make a legitimate arrest, they would only have to continue their surveillance in that area and they likely would observe a drug transaction.

Officer Allen would have had to have lied about seeing the defendant get out of the car and pull up his shirt, revealing the gun, and the fact that he radioed the backup team on two separate occasions: when he radioed that the defendant got out of the Lexus; and, when he radioed them that he saw the gun in the defendant's waistband. The backup officers would have to be lying about receiving the transmissions and the recovering of the gun and the drugs.

There were also internal inconsistencies in the defendant's testimony. While on the stand, he testified that the two people standing on the corner were standing on the side of Shelton and Lloyd where the J & V Food Market is located. However, the defendant submitted a diagram of the events in which he placed the two men standing on the corner on the other side of the street where Officer Allen said they were.

The Court is also persuaded by counsel for the government that the logic of the situation supports the testimony of the police. The defendant admitted that he carried the gun for protection against other drug dealers. It is much likelier

that he had the gun somewhere near his person if he was worried about protecting himself from other drug dealers. With the gun in the glove compartment, he would have to get his key, unlock the glove compartment, and take the gun out when faced with a threat. This seems unlikely. He also appeared to the Court to change his testimony from direct to cross. On direct, he said that he and the person on the corner who got into his car were talking about going out that night. On cross, he admitted that this other person is also a drug dealer and that they may have talked as well about drug dealing.

## II. Discussion

The Court concludes that when Officer Allen saw the defendant lift his shirt and reveal the gun in his waistband, and radioed that information to the backup officers, the backup officers had reasonable suspicion to conduct a Terry stop of the car. They had a basis at that point to get the defendant out of the car for their own safety. It was then permissible for the officer to put his hand where Officer Allen said he saw the gun. Once Officer Wiley retrieved the gun, he asked the defendant if he had a permit for it. The defendant said no. At this point, there was probable cause to arrest the defendant. In addition, Officer Wiley saw the bag of what appeared to be crack cocaine in plain view inside the car. He, therefore, could legally seize it

as contraband. At that point, there was also probable cause to arrest the defendant for narcotics violations as well as for firearms violations.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA                   :       CRIMINAL ACTION  
  :         
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  :         
  :         
LATWAN COOPER                               :       NO. 05-27

ORDER

AND NOW, this 11th day of August, 2005, upon consideration of defendant's Motion to Suppress (Docket No. 20), the government's response thereto, and a hearing on August 8, 2005, IT IS HEREBY ORDERED that the motion is DENIED for the reasons stated in a memorandum of today's date.

BY THE COURT:

/s/ Mary A. McLaughlin  
MARY A. McLAUGHLIN, J.