

# Court of Appeals, State of Michigan

## ORDER

People of MI v Bryan Michael Davis

Docket No. 302517

LC No. 10-008739-01-FC

Karen M. Fort Hood  
Presiding Judge

Kurtis T. Wilder

Kirsten Frank Kelly  
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the November 12, 2010, order of the Wayne County Circuit Court, which granted defendant's motion to suppress, is REVERSED. Although the trial court did not address whether the initial detention of defendant was constitutionally reasonable under *Terry v Ohio*, 392 US 1; 88 S Ct 1868; 20 L Ed 2d 889 (1968), we agree with the prosecution that the circumstances created a reasonable particularized suspicion for the police officer to make an investigatory stop of defendant. See *People v Oliver*, 464 Mich 184, 194-195 and n 5; 627 NW2d 297 (2001), cert den 534 US 1115; 122 S Ct 925; 151 L Ed 2d 888 (2002). The officer briefly detained defendant in order to confirm whether he was the perpetrator of an armed robbery that had just occurred at a nearby gas station. Furthermore, the trial court erred as a matter of law in ruling that defendant was under arrest when the officer placed defendant in the patrol car while awaiting the arrival of other officers. Detention of a suspect in a police cruiser does not automatically transform a *Terry* stop into an arrest. See *United States v Foster*, 376 F3d 577, 587 fn 9 (CA 6, 2004), cert den 543 US 1012; 125 S Ct 635; 160 LE2d 478 (2004) and *Houston v Clark County Sheriff Deputy John Does 1-5*, 174 F3d 809, 815 (CA 6, 1999). Accordingly, the trial court erred in suppressing the on-the-scene identification by the eyewitness, who was at the gas station when the robbery occurred, and the on-the-scene identification by Westland Police Officer Darin Keir, who had seen defendant in a neighborhood adjacent to the gas station within moments from hearing a description of the perpetrator over the police radio broadcast. Therefore, the matter is REMANDED to the circuit court for reinstatement of the charges and further proceedings consistent with this order.

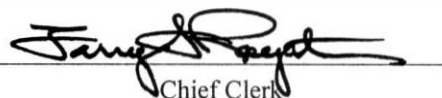
Pursuant to MCR 7.215(F)(2), this Court further directs that this order shall take immediate effect. The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

DEC 20 2011

Date

  
Chief Clerk