

Court of Appeals, State of Michigan

ORDER

People of MI v Tommie Allen

Docket No. 304825

LC No. 11-001194-AR

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the June 15, 2011, order of the Wayne Circuit Court affirming the district court's order of dismissal hereby is REVERSED. A seizure for the purposes of the Fourth Amendment does not occur without physical force to restrain movement or where the defendant submits to an officer's displayed authority. *People v Lewis*, 199 Mich App 556, 559; 502 NW2d 363 (1993). Here, defendant did not submit to the officer's command to stop, which was a display of authority. Also, the fact that defendant ran from the police unimpeded demonstrates there was no physical force to restrain movement when the chase began. Because a seizure does not take place until an officer has actually gained control of a person, contraband cannot be suppressed as the fruit of an illegal detention where a defendant flees after observing police officers and discards contraband during the chase. *Id.* at 559-560. The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



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

FEB 22 2012

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.
Chief Clerk