

# Court of Appeals, State of Michigan

## ORDER

People of MI v Lee Richardson

Docket No. 309123

LC No. 11-011634-AR

Karen M. Fort Hood  
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder  
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the February 23, 2012, order of the Wayne Circuit Court affirming the district court's order of dismissal hereby is REVERSED. Here, the police officers stopped to question defendant, who was walking on the sidewalk in the early morning near where the officers had just heard an alleged gunshot. A police officer does not commit a seizure by approaching an individual and seeking voluntary cooperation through non-coercive conduct. *People v Jenkins*, 472 Mich 26, 33; 691 NW2d 759 (2005). Once defendant saw the officers, he clutched at the right side of his jacket and waistband, said, "Oh, shit," and ran. 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, 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. Therefore, the gun discovered by the officer should not have been suppressed. The case is REMANDED 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

OCT 03 2012

Date

  
Chief Clerk