

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant

v

MONTEZ ANTHONY BROOKS,

Defendant-Appellee

UNPUBLISHED

June 17, 1997

No. 190278

Washtenaw Circuit Court

LC No. 95-4015 FH

Before: White, P.J., and MacKenzie and E. R. Post*, JJ.

MEMORANDUM.

This case is being decided without oral argument pursuant to MCR 7.214(E). In reviewing a trial court's decision on a motion to suppress evidence as seized in violation of the Fourth Amendment and/or Const 1963, art 1, §11, the trial court's findings of historical fact are reviewed under the clearly erroneous standard, but all other questions, whether of law or mixed questions of law and fact, are required to be reviewed *de novo* to assure uniformity of application of the federal Constitution. *Ornelas v United States*, 517 US ____; 116 S Ct 1657; 134 L Ed 2d 911, 919-920 (1996).

Here, the trial court's findings of historical fact are not challenged as being clearly erroneous, and are accepted by this Court. Those findings include that defendant was validly stopped for a traffic infraction, validly placed in custodial arrest when it was learned that he was driving with a suspended license, and that a search of his person and vehicle incident to that arrest disclosed a small amount of marijuana and documents relating to an apartment at 1309 Huron in the City of Ann Arbor. On being taken to police headquarters and advised of his *Miranda* rights, defendant waived his right of silence and his right to counsel and when questioned by police denied being a resident of apartment number two at 1309 Huron, instead giving one residence as his official residence for parole purposes, and a second residence as one being shared with Taniesha Ford. Ms. Ford confirmed that defendant resided with her on Grove Street, while defendant's parole address was on Monroe Street.

* Circuit judge, sitting on the Court of Appeals by assignment.

Charlotte Hall came to police headquarters and confirmed that she was the lessee of apartment number two at 1309 Huron. Hall and defendant had lived there together but had moved out. Hall had attempted to cancel the lease but had been unable to do so.

On these facts, consent to search the apartment was given by a person possessing adequate authority over the premises. The circuit court's order granting defendant's motion to suppress is reversed.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Helene N. White

/s/ Barbara B. MacKenzie

/s/ Edward R. Post