

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL ANTWONE OWENS,

Defendant-Appellant.

UNPUBLISHED

September 13, 2007

No. 271509

Oakland Circuit Court

LC No. 2006-206859-FH

Before: Markey, P.J., and Saad and Wilder, JJ.

PER CURIAM.

The jury convicted defendant of possession of less than 25 grams of cocaine, MCL 222.7403(2)(a)(v). The court sentenced defendant as an habitual offender, fourth offense, MCL 769.12, to one to fifteen years in prison. On appeal, defendant challenges the trial court's pretrial ruling that denied his motion to suppress the baggie of cocaine that he spat out immediately after a police officer asked him for his identification while he was a passenger in a vehicle stopped for a nonfunctioning headlight. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On January 15, 2006, at approximately 3:00 a.m., Officers Tucker and White stopped a vehicle because of a nonfunctioning headlight. Officer Tucker observed defendant in the front passenger seat. Defendant was wearing a seatbelt, but the seat was reclined and he appeared to be lethargic and under the influence of alcohol or an illegal substance. Officer Tucker asked defendant if he had a driver's license or state identification, but defendant did not respond. When Officer Tucker then shined her flashlight in defendant's face and repeated the request, defendant spat out a plastic baggie containing suspected cocaine. Defendant was asked to step out of the vehicle and unfasten his seat belt. As defendant complied, narcotics fell from his chest onto the ground at his feet.

On appeal, defendant argues that the evidence should have been suppressed as the fruit of an unlawful seizure, because the officers did not have reasonable suspicion to detain him.

The standard of review is set forth in *People v Jenkins*, 472 Mich 26, 31; 691 NW2d 759 (2005), as follows:

This Court reviews a trial court's factual findings in a suppression hearing for clear error. *People v Custer*, 465 Mich 319, 325-326; 630 NW2d 870 (2001).

But the “[a]pplication of constitutional standards by the trial court is not entitled to the same deference as factual findings.” *People v Nelson*, 443 Mich 626, 631 n 7, 505 NW2d 266 (1993). Application of the exclusionary rule to a Fourth Amendment violation is a question of law that is reviewed de novo. *Custer, supra* at 326.

Defendant’s contention ignores that the request for his identification occurred in the context of a valid traffic stop. The cases defendant cites primarily concern whether there was a seizure at all, i.e., whether a reasonable person would have believed he was free to leave. *United States v Drayton*, 536 US 194; 122 S Ct 2105; 153 L Ed 2d 242 (2002) (police board a bus at a rest stop and question passengers); *Brown v Texas*, 443 US 47; 99 S Ct 2637; 61 L Ed 2d 357 (1979) (police question a man walking in an area of drug-trafficking); *People v Shankle*, 227 Mich App 690; 577 NW2d 471 (1998) (police question the defendant while in a car parked in a driveway with the engine running); *People v Bloxson*, 205 Mich App 236; 517 NW2d 563 (1994) (police board a bus and question passengers). The present case involves a traffic stop where there was a detention. The cases cited by defendant are inapposite.

If the police make a traffic stop that is justified at its inception, a challenge may be made that the subsequent detention was unreasonable. *People v Williams*, 472 Mich 308, 315; 696 NW2d 636 (2005). See also *Illinois v Caballes*, 543 US 405, 407; 125 S Ct 834; 160 L Ed 842 (2005). Here, however, defendant does not make this argument. Furthermore, as explained in *Williams, supra*, p 315:

A traffic stop is reasonable as long as the driver is detained only for the purpose of allowing an officer to ask reasonable questions concerning the violation of law and its context for a reasonable period. The determination whether a traffic stop is reasonable must necessarily take into account the evolving circumstances with which the officer is faced. As we observed in *People v Burrell*, 417 Mich 439, 453; 339 NW2d 403 (1983), when a traffic stop reveals a new set of circumstances, an officer is justified in extending the detention long enough to resolve the suspicion raised.

Here, the officer requested that defendant produce identification, a request that by itself does not result in a “seizure” for Fourth Amendment purposes. *Jenkins, supra*, p 33. Where, as here, defendant appeared to be under the influence of drugs or alcohol, this limited inquiry is a minimal intrusion and does not render the detention unreasonable. Therefore, the trial court properly denied defendant’s motion to suppress.

Affirmed.

/s/ Jane E. Markey
/s/ Henry William Saad
/s/ Kurtis T. Wilder