

Court of Appeals, State of Michigan

ORDER

People of MI v Brian Scott Oetman

Docket No. 283574

LC No. 2007-031647-AR

Richard A. Bandstra
Presiding Judge

William B. Murphy

Jane E. Markey
Judges

In lieu of granting the delayed application for leave to appeal, we REVERSE the lower court orders and REMAND for reinstatement of the charges against defendant. Although there were discrepancies between the version of events as described by the investigating officer and the version given by defendant, it was unnecessary to resolve the credibility dispute because it related to whether defendant was actually involved in the truck pull or had innocently just left his brother's house, but that was not the pertinent issue. It was whether under the totality of the circumstances, the officer had reasonable suspicion of criminal activity to support an investigatory stop. *People v Custer*, 465 Mich 319, 326-327; 630 NW2d 870 (2001). Based on the undisputed portions of the officer's testimony, he did have a reasonable suspicion. When dispatched to the scene, the officer had a report of a truck pull occurring between two trucks. He arrived approximately fifteen minutes later, though that time span is of little significance in light of the fact that when he arrived, he saw tire burn marks on the road and smelled a strong odor of burning rubber, which indicated that the marks were of recent origin. And even accepting that defendant had innocently just left his brother's house, he did not testify that the officer saw him pull from his brother's driveway onto the road where the officer stopped him, and in fact testified that he had been on the road for perhaps 30 to 40 seconds before he was pulled over, and was a couple hundred yards south of the driveway at that time. Defendant was in one of only two vehicles in the area at 12:45 a.m., and photographic evidence established that defendant was very near some tire marks at the time he was pulled over. It may very well be true that defendant was not involved in the truck pull. But, under the totality of the circumstances, the officer was entitled to draw the reasonable inference that defendant might have been involved in the truck pull, and so, he had a reasonably articulable basis for stopping defendant for the purpose of allowing him to briefly investigate further. *People v Locicero (After Remand)*, 453 Mich 496, 500-501; 556 NW2d 498 (1996).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 30 2008

Date

Sandra Schultz Mengel
Chief Clerk