

Court of Appeals, State of Michigan

ORDER

People of MI v Brian Stokes

Docket No. 285585

LC No. 07-100097

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder
Judges

The Court orders that the motion to file a late answer is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the April 30, 2008, order of the Wayne Circuit Court affirming the district court's grant of the motion to suppress is hereby REVERSED. The Thirty-Sixth District Court should not have suppressed the evidence of the counterfeit DVDs on the basis that the surveillance was improper. No reasonable expectation of privacy exists on property open to the public. See *People v Gadomski*, 274 Mich App 174, 180; 731 NW2d 466 (2007); *People v Custer (On Remand)*, 248 Mich App 552, 561; 640 NW2d 576 (2001); *People v Shankle*, 227 Mich App 690, 693-694; 577 NW2d 471 (1998) and *People v Hunt*, 77 Mich App 590, 593-594; 259 NW2d 147 (1977). Where defendant had no expectation of privacy in the public parking lot outside of the gas station, the officer properly set up surveillance based on his hunch regarding criminal activity. *People v LoCicero*, 453 Mich 496, 502; 556 NW2d 498 (1996). As a result of the surveillance, the officer had the authority to stop and briefly detain defendant based on "reasonable suspicion that criminal activity may be afoot." *Terry v Ohio*, 392 US 1, 30-31; 88 S Ct 1868; 20 LEd2d 889 (1968). The officer's observation of defendant standing outside the gas station showing people DVDs from a backpack and coupled with defendant's actions, upon seeing the officer approach, of returning the DVDs to his backpack and sweeping the parking lot with a broom, support the officer's reasonable suspicion that criminal activity was afoot. 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 Sandra Schultz Mengel, Chief Clerk, on

SEP 23 2008

Date

Sandra Schultz Mengel
Chief Clerk