

STATE OF OHIO)
)SS:
CUYAHOGA COUNTY)

IN THE COURT OF COMMON PLEAS
CASE NO. CR-466388

STATE OF OHIO)
)
Plaintiff)
)
vs.)
)
RAESHAWN PORTER)
)
Defendant)

JOURNAL ENTRY

MICHAEL J. RUSSO, JUDGE:

On July 11, 2005 the Court received evidence and argument upon Defendant’s Motion to Suppress Evidence. For the following reasons, the motion is granted.

The testimony of the arresting officer revealed that Defendant was stopped on April 14, 2005 upon the tip of an informant, who stated a drug transaction would occur within the hour in a strip mall at East 191st and Euclid Avenue in the City of Euclid. The informant, who was under arrest at the time, also related that a light-colored vehicle would be involved in the transaction. The arresting officer, who had extensive training and experience in drug interdiction and who had made 40-50 drug arrests in the subject area, set up surveillance at the strip mall with other officers. At approximately 1:30 a.m., the arresting officer observed a gold Villager minivan enter and drive slowly through the parking lot of the closed strip mall as if the driver were looking for someone. Although no traffic offenses were committed, the vehicle was stopped after exiting to the street and the Defendant, the only occupant of the vehicle, was questioned. It turned out that Defendant was driving without a valid license and he was arrested. The next day the Euclid police determined the vehicle Defendant was driving had been stolen from Cleveland. Defendant subsequently was indicted for Receiving Stolen Property involving the aforementioned motor vehicle.

To justify an investigative stop, an officer “must be able to point to specific and articulable facts which, taken together with rational inference from those facts, reasonably warrant that intrusion.” Terry v. Ohio (1968), 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L.Ed.2d 889. “Reasonable suspicion” is determined from

the totality of the circumstances. State v. Bobo (1988), 37 Ohio St. 3d 177, paragraph one of the syllabus. An anonymous tip can provide the reasonable suspicion for an investigative stop if the facts in the tip are corroborated by independent police work. State v. Anderson, Geauga App. No. 2003-G-2540, 2004-Ohio-3192, 2004 WL 1375769, at paragraphs 11-12; State v. Rice, Cuyahoga App. No. 80997, 2003-Ohio-557, 2003 WL 253698, at paragraph 11.

In this instance, the informant was, in essence, an anonymous informant; that is, he was not known to the arresting officer and there was no evidence that he was a known or reliable informant to other Euclid police officers. Thus, the tip required corroboration by independent police investigation. The evidence revealed that the arresting officer observed a vehicle generally similar to the awaited vehicle pass through a closed strip mall, then exit without pause but without committing any traffic offense. The arresting officer, who had made numerous drug arrests in this area, felt the vehicle slowed as if looking for someone, which was similar to actions he had observed in other traffic stops involving narcotics. Based upon the totality of the circumstances, the Court finds that this evidence does not rise to the level of reasonable suspicion sufficient to support the investigatory stop that led to Defendant's arrest and indictment. See City of Bowling Green v. Tomor, Wood App. No. WD-02-012, 2002-Ohio-6366, 2002 WL 31630860, paragraphs 10-11; City of Akron v. Little (1998), 94 Ohio Misc. 2d 108. Accordingly, all evidence obtained from the traffic stop of Defendant is suppressed.

IT IS SO ORDERED.

DATE

MICHAEL J. RUSSO, JUDGE

CERTIFICATE OF SERVICE

A copy of the foregoing **Journal Entry** has been sent by regular U.S. Mail this ____ day of July, 2005 to: Jaye M. Schlachet, Esq., Attorney for Defendant, 55 Public Square, #1300, Cleveland, Ohio 44113 and Kerry Sowul, Esq., Assistant Cuyahoga County Prosecutor, 1200 Ontario Street, Cleveland, Ohio 44113.

MICHAEL J. RUSSO, JUDGE