

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CLARENCE RANDOLPH,

Defendant-Appellant.

UNPUBLISHED

March 11, 1997

No. 189335

Detroit Recorder's Court

LC No. 94-011511 FH

Before: Wahls, P.J., and Gage and W.J. Nykamp,* JJ.

PER CURIAM.

Defendant pleaded guilty to first-degree retail fraud, MCL 750.356c; MSA 28.588(3), and to being a fourth habitual offender, MCL 769.12; MSA 28.1084. The trial court initially sentenced defendant to a term of one to two years' imprisonment for the retail fraud conviction. The trial court then vacated that sentence, and sentenced defendant to a term of one to five years' imprisonment as an habitual offender. Defendant appeals as of right. We affirm.

Two undercover Dearborn police officers observed a suspicious vehicle with three occupants driving up and down the aisles of the Fairlane Towne Center parking lot. The two officers, in separate cars, followed the suspicious vehicle from the Fairlane Towne Center parking lot to the Southland Shopping Mall parking lot. The officers followed two of the vehicle's occupants into Hudson's, and observed defendant stuff an empty bag with clothing. The suspects walked toward the exit, and passed the register without stopping to pay. Before the suspects reached their vehicle, they were arrested by the two police officers.

Defendant argues that the trial court abused its discretion in denying his motion to withdraw his plea because the Dearborn police officers were outside their jurisdiction when they arrested him in Taylor, and were not in hot pursuit. We disagree.

Peace officers who make a warrantless arrest outside their territorial jurisdiction are treated as private persons, and, as such, have all the powers of arrest possessed by such private persons. *People*

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

v Meyer, 424 Mich 143, 154; 379 NW2d 59 (1985). In such cases, the officers' actions are lawful if private citizens would have been authorized to do the same. *Id.*, pp 154-155. A private person may make an arrest for a felony committed in his presence. MCL 764.16; MSA 28.875; *Meyer, supra*, p 154 n 11. Pursuant to MCL 764.16; MSA 28.875, the police acted lawfully by following defendant into another jurisdiction, observing the commission of an offense, and then arresting him. *People v Davis*, 133 Mich App 707, 715; 350 NW2d 796 (1984).

In any case, defendant would not be able to show prejudice even if the officers had violated MCL 764.2a; MSA 28.861(1). Such a jurisdictional violation does not justify application of the exclusionary rule. *People v McCrady*, 213 Mich App 474, 480-481; 540 NW2d 718 (1995); *People v Clark*, 181 Mich App 577, 581; 450 NW2d 75 (1989).

Affirmed.

/s/ Myron H. Wahls

/s/ Hilda R. Gage

/s/ Wesley J. Nykamp