

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

GEORGE COOK,

Defendant-Appellee.

UNPUBLISHED

June 19, 1998

No. 206870

Recorder's Court

LC No. 97-005043

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Reversed and remanded for reinstatement. Plaintiff appeals as of right the trial court's order granting defendant's motion to suppress and dismissing the charge. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with carrying a concealed weapon in a motor vehicle, MCL 750.227; MSA 28.424. Defendant moved to suppress the evidence, and an evidentiary hearing was held. The arresting officers testified that they approached defendant's vehicle because it was standing in a no parking or no standing zone. As they approached, defendant bent over, and placed something on the floorboard. One of the officers saw the butt and slide of a handgun on the floor, and ordered defendant out of the car. A neighbor testified that the officers approached from a different direction, that there was another person in defendant's car, and that people frequently stopped in front of her house. The trial court found that the officers did not have a legal basis for approaching defendant's car, and granted the motion to suppress. When the prosecution could not go forward without the suppressed evidence, the case was dismissed.

The trial court clearly erred in granting the motion to suppress. *People v Shields*, 200 Mich App 554; 504 NW2d 711 (1993). There are three tiers of police-citizen encounters. *People v Shabaz*, 424 Mich 42, 56; 378 NW2d 451 (1985). The first tier consists of an officer asking a person questions in a public place. Officers do not violate the Fourth Amendment by merely approaching an individual, identifying themselves as police officers, and putting questions to the individual. If there is no detention, there is no seizure within the meaning of the Fourth Amendment. *Id.*

This case initially presented a first tier contact. Officers approached defendant's vehicle ostensibly to issue a parking ticket. Even if a ticket was not merited, their approach did not constitute a seizure. The nature of the encounter did not change until the officers saw a gun on the floorboard of defendant's vehicle. At that point, they had probable cause to arrest defendant, based on the plain view of the weapon. *People v Champion*, 452 Mich 92; 549 NW2d 849 (1996). The trial court clearly erred in granting the motion to suppress of the charge. We do not retain jurisdiction.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage